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Wm. A. Howell

THE

WORKS OF EDMUND BURKE,

WITH A MEMOIR.

IN THREE VOLUMES.

VOL. III.

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WORKS

OF

EDMUND BURKE.

NINTH REPORT

FROM THE SELECT COMMITTEE (OF THE HOUSE OF COMMONS) APPOINTED TO TAKE INTO CONSIDERATION THE STATE OF THE ADMINISTRATION OF JUSTICE IN THE PROVINCES OF BENGAL, BAHAR, AND ORISSA, AND TO REPORT THE SAME, AS IT SHALL APPEAR TO THEM, TO THE HOUSE, WITH THEIR OBSERVATIONS THEREUPON; AND WHO WERE INSTRUCTED TO CONSIDER HOW THE BRITISH POSSESSIONS IN THE EAST INDIES MAY BE HELD AND GOVERNED WITH THE GREATEST SECURITY AND ADVANTAGE TO THIS COUNTRY, AND BY WHAT MEANS THE HAPPINESS OF THE NATIVE INHABITANTS MAY BE BEST PROMOTED.—(25 JUNE, 1783.)

I.—OBSERVATIONS ON THE STATE OF THE COMPANY'S AFFAIRS IN INDIA.

In order to enable the house to adopt the most proper means for regulating the British government in India, and for promoting the happiness of the natives, who live under its authority or influence, your committee hold it expedient to collect into distinct points of view the circumstances by which that government appears to them to be most essentially disordered; and to explain fully the principles of policy, and the course of conduct, by which the natives of all ranks and orders have been reduced to their present state of depression and misery.

Your committee have endeavoured to perform this task in plain and popular language, knowing that nothing has alienated the house from inquiries, absolutely necessary for the performance of one of the most essential of all its duties, so much as the technical language of the company's records; as the Indian names of persons, of offices, of the tenure and qualities of estates, and of all the varied branches of their intricate revenue. This language is indeed of necessary use in the executive departments of the company's affairs; but it is not necessary to parliament. A language, so foreign from all the ideas and habits of the far greater part of the members of this house has a tendency to disgust them with all sorts of inquiry concerning this subject. They are fatigued into such a despair of ever obtaining a competent knowledge of the transactions in India, that they are easily persuaded to remand them back to that obscurity, mystery, and intrigue, out of which they have been forced upon publick notice, by the calamities arising from their extreme mismanagement. This mismanagement has itself (as your committee conceive) in a great measure arisen from dark cabals, and secret suggestions to persons in power, without a regular publick inquiry into the good or evil tendency of any measure, or into the merit or demerit of any person intrusted with the company's concerns.

The plan adopted by your committee, is, First, To consider the law regulating the East-India Company, as it now stands; and, Secondly, To inquire into the circumstances of the two great links of connexion, by which the territorial possessions in India are united to this kingdom; namely, the company's commerce; and the government exercised under the charter, and under acts of parliament. The last of these objects, the commerce, is taken in two points of view, the *external*, or the direct trade between India and Europe; and the *internal*, that is to say, the trade of Bengal in all the articles of produce and manufacture, which furnish the company's investment.

The government is considered by your committee under the like descriptions of internal and external. The internal regards the communication between the court of directors and their servants in India; the management of the revenue; the expenditure of publick money; the civil administration; the administration of justice: and the state of the army.

The external regards, first, the conduct and maxims of the company's government with respect to the native princes and people dependent on the British authority: and next, the proceedings with regard to those native powers, which are wholly independent of the company. But your committee's observations on the last division extend to those matters only, which are not comprehended in the report of the committee of secrecy. Under these heads your committee refer to the most leading particulars of abuse, which prevail in the administration of India; deviating only from this order, where the abuses are of a complicated nature, and where one cannot be well considered, independently of several others.

Your committee observe, that this is the second attempt made by parliament for the reformation of abuses in the company's government. It appears, therefore, to them a necessary preliminary to this second *undertaking, to consider the causes which, in their opinion*, have produced the failure of the first; that the defects of the original plan may be supplied, its errors corrected, and such useful regulations, as were then adopted, may be further explained, enlarged, and enforced.

The first design of this kind was formed in the session of the year 1773. In that year, parliament, taking up the consideration of the affairs of India, through two of its committees, collected a very great body of details concerning the interiour œconomy of the company's possessions; and concerning many particulars of abuse which prevailed at the time when those committees made their ample and instructive reports. But it does not appear that the body of regulations enacted in that year, that is, in the East-India act of the thirteenth of his majesty's reign, were altogether grounded on that information; but were adopted rather on probable speculations, and general ideas of good policy and good government. New establishments, civil and judicial, were therefore formed at a very great expense, and with much complexity of constitution. Checks and counter-checks of all kinds were contrived in the execution, as well as in the formation of this system, in which all the existing authorities of this kingdom had a share: for parliament appointed the members of the presiding part of the new establishment; the crown appointed the judicial, and the company preserved the nomination of the other officers. So that if the act has not fully answered its purposes, the failure cannot be attributed to any want of officers of every description, or to the deficiency of any mode of patronage in their appointment. The cause must be sought elsewhere.

The act had in its view (independently of several detached regulations) five fundamental objects:

1st. The reformation of the court of proprietors of the East-India Company:

2dly. A new model of the court of directors, and an enforcement of their authority over the servants abroad:

3dly. The establishment of a court of justice capable of protecting the natives from the oppressions of British subjects:

4thly. The establishment of a general council to be seated in Bengal, whose authority should in many particulars, extend over all the British settlements in India:

5thly. To furnish the ministers of the crown with constant information concerning the whole of the company's correspondence with India, in order that they might be enabled to inspect the conduct of the directors and servants, and to watch over the execution of all parts of the act; that they might be furnished with matter to lay before parliament from time to time, according as the state of things should render regulation or animadversion necessary.

The first object of the policy of this act was to improve the constitution of the court of proprietors. In this case, as in almost all the rest, the remedy was not applied directly to the disease. The complaint was, that factions in the court of proprietors had shown, in several instances, a disposition to support the servants of the company against the just coercion and legal prosecution of the directors. Instead of applying a corrective to the distemper, a change was proposed in the constitution. By this reform it was presumed, that an interest would arise in the general court, more independent in itself, and more connected with the commercial prosperity of the company. Under the new constitution, no proprietor not possessed of a thousand pounds capital stock was permitted to vote in the general court: before the act, five hundred pounds was a sufficient qualification for one vote; and no value gave more. But as the lower classes were disabled, the power was increased in the higher: Proprietors of three thousand pounds were allowed two votes; those of six thousand were entitled to three; ten thousand pounds was made the qualification for four. The votes were thus regulated in the scale and gradation of property. On this scale, and on some provisions to prevent occasional qualifications and splitting of votes, the whole reformation rested.

Several essential points, however, seem to have been omitted or misunderstood. No regulation was made to abolish the pernicious custom of voting by *ballot;* by means of which, acts of the highest concern to the company, and to the state, might be done by individuals with perfect impunity; and even the body itself might be subjected to a forfeiture of all its privileges for defaults of persons, who, so far from being under controul, could not be so much as known in any mode of legal cognizance. Nothing was done, or attempted, to prevent the operation of the interest of delinquent servants of the company in the general court, by which they might even come to be their own judges; and in effect, under another description, to become masters in that body, which ought to govern them. Nor was any thing provided to secure the independency of the proprietory body from the various exteriour interests, by which it might be disturbed, and diverted from the conversation of that pecuniary concern, which the act laid down as the sole security for preventing a collusion between the general court and the powerful delinquent servants in India. The whole of the regulations concerning the court of proprietors relied upon two principles, which have often proved fallacious; namely, that small numbers were a security against faction and disorder; and, that integrity of conduct would follow the greater property. In no case could these principles be less depended upon than in the affairs of the East-India Company. However, by wholly cutting off the lower, and adding to the power of the higher classes, it was supposed that the higher would keep their money in that fund to make profit; that the vote would be a secondary consideration, and no more than a guard to the property; and that therefore any abuse, which tended to depreciate the value of their stock, would be warmly resented by such proprietors.

If the ill effects of every misdemeanour in the company's servants were to be *immediate*, and had a tendency to lower the value of the stock, something might justly be expected from the pecuniary security taken by the act. But from the then state of things, it was more than probable, that proceedings, ruinous to the permanent interest of the company, might commence in great lucrative advantages. Against this evil, large pecuniary interests were rather the reverse of a remedy. Accordingly, the company's servants have ever since covered over the worst oppressions of the people under their government, and the most cruel and wanton ravages of all the neighbouring countries by holding out, and for a time actually realizing, additions of revenue to the territorial funds of the company, and great quantities of valuable goods to their investment.

But this consideration of mere income, (whatever weight it might have,) could not be the first object of a proprietor in a body so circumstanced. The East-India Company is not, like the Bank of England, a mere moneyed society for the sole purpose of the preservation or improvement of their capital; and, therefore, every attempt to regulate it upon the same principles must inevitably fail. When it is considered that a certain share in the stock gives a share in the government of so vast an empire, with such a boundless patronage, civil, military, marine, commercial, and financial, in every department of which such fortunes have been made as could be made no where else, it is impossible not to perceive that capitals, far superiour to any qualifications appointed to proprietors, or even to directors, would readily be laid out for a participation in that power. The Indian proprietor, therefore, will always be, in the first instance, a politician; and the bolder his enterprize, and the more corrupt his views, the less will be his consideration of the price to be paid for compassing them. The new regulations did not reduce the number so low as not to leave the assembly still liable to all the disorder, which might be supposed to arise from multitude. But, if the principle had been well established and well executed, a much greater inconveniency grew out of the reform than that which had attended the old abuse; for if tumult and disorder be lessened by reducing the number of proprietors, private cabal and intrigue are facilitated, at least in an equal degree; and it is cabal and corruption, rather than disorder and confusion, that was most to be dreaded in transacting the affairs of India. Whilst the votes of the smaller proprietors continued, a door was left open for the publick sense to enter into that society: since that door has been closed, the proprietory has become (even more than formerly) an aggregate of private interests, which subsist at the expense of the collective body. At the moment of this revolution in the proprietory, as it might naturally be expected, those who had either no very particular interest in their vote, or but a petty object to pursue, immediately disqualified; but, those who were deeply interested in the company's patronage; those who were concerned in the

supply of ships and of the other innumerable objects required for their immense establishments; those who were engaged in contracts with the treasury, admiralty, and ordnance, together with the clerks in publick offices, found means of securing qualifications at the enlarged standard. All these composed a much greater proportion than formerly they had done of the proprietory body.

Against the great, predominant, radical corruption of the court of proprietors, the raising of the qualification proved no sort of remedy. The return of the company's servants into Europe poured in a constant supply of proprietors, whose ability to purchase the highest qualifications for themselves, their agents and dependents, could not be dubious. And this latter description form a very considerable, and by far the most active and efficient part of that body. To add to the votes, which is adding to the power, in proportion to the wealth of men, whose very offences were supposed to consist in acts which lead to the acquisition of enormous riches, appears by no means a well-considered method of checking rapacity and oppression. In proportion as these interests prevailed, the means of cabal, of concealment, and of corrupt confederacy, became far more easy than before. Accordingly, there was no fault with respect to the company's government over its servants, charged or chargeable on the general court as it originally stood, of which, since the reform, it has not been notoriously guilty. It was not therefore a matter of surprise to your committee, that the general court, so composed, has at length grown to such a degree of contempt, both of its duty, and of the permanent interest of the whole corporation, as to put itself into open defiance of the salutary admonitions of this house, given for the purpose of asserting and enforcing the legal authority of their own body over their own servants.

The failure in this part of the reform of 1773 is not stated by your committee as recommending a return to the antient constitution of the company, which was nearly as far as the new from containing any principle tending to the prevention or remedy of abuses; but to point out the probable failure of any future regulations, which do not apply directly to the grievance, but which may be taken up as experiments to ascertain theories of the operations of councils formed of greater or lesser numbers, or such as shall be composed of men of more or less opulence, or of interests of newer or longer standing, or concerning the distribution of power to various descriptions or professions of men, or of the election to office by one authority, rather than another.

The second object of the act was the court of directors. Under the arrangement of the year 1773, that court appeared to have its authority much strengthened. It was made less dependent than formerly upon its constituents the proprietory. The duration of the directors in office was rendered more permanent, and the tenure itself diversified by a varied and intricate rotation. At the same time their authority was held high over their servants of all descriptions; and the only rule prescribed to the council general of Bengal, in the exercise of the large and ill-defined powers given to them, was, that they were to yield obedience to the orders of the court of directors. As to the court of directors itself, it was left with very little regulation. The custom of ballot, infinitely the most mischievous in a body possessed of all the ordinary executive powers, was still left; and your committee have found the ill effects of this practice in the course of their inquiries. Nothing was done to oblige the directors to attend to the promotion of their servants according to their rank and merits. In judging of those merits, nothing was done to bind them to any observation of what appeared on their record. Nothing was done to compel them to prosecution or complaint where delinquency became visible. The act indeed prescribed, that no servant of the company abroad should be eligible into the direction until two years after his return to England. But as this regulation rather presumes than provides for an inquiry into their conduct, a very ordinary neglect in the court of directors might easily defeat it, and a short remission might in this particular operate as a total indemnity. In fact, however, the servants have of late seldom attempted a seat in the direction; an attempt which might possibly rouse a dormant spirit of inquiry; but satisfied with an interest in the proprietory, they have, through that name, brought the direction very much under their own controul.

As to the general authority of the court of Directors, there is reason to apprehend, that on the whole, it was somewhat degraded by the act, whose professed purpose was to exalt it; and that the only effect of the parliamentary sanction to their orders has been, that along with those orders, the law of the land has been despised and trampled under foot. The directors were not suffered either to nominate or to remove those whom they were empowered to instruct: from masters they

were reduced to the situation of complainants; a situation, the imbecility of which no laws or regulations could wholly alter; and when the directors were afterwards restored in some degree to their antient power, on the expiration of the lease given to their principal servants, it became impossible for them to recover any degree of their antient respect, even if they had not, in the mean time, been so modelled, as to be entirely free from all ambition of that sort.

From that period, the orders of the court of directors became so habitually despised by their servants abroad, and at length to be so little regarded even by themselves, that this contempt of orders forms almost the whole subject matter of the voluminous reports of two of your committees. If any doubt, however, remains concerning the cause of this fatal decline of the authority of the court of directors, no doubt whatsoever can remain of the fact itself, nor of the total failure of one of the great leading regulations of the act of 1773.

The third object was a new judicial arrangement; the chief purpose of which was, to form a strong and solid security for the natives, against the wrongs and oppressions of British subjects resident in Bengal. An operose and expensive establishment of a supreme court was made, and charged upon the revenues of the country. The charter of justice was by the act left to the crown, as well as the appointment of the magistrates. The defect in the institution seemed to be this; that no rule was laid down, either in the act or the charter, by which the court was to judge. No descriptions of offenders or species of delinquency were properly ascertained according to the nature of the place, or to the prevalent mode of abuse. Provision was made for the administration of justice in the remotest part of Hindostan, as if it were a province in Great Britain. Your committee have long had the constitution and conduct of this court before them; and they have not yet been able to discover very few instances (not one that appears to them of leading importance) of relief given to the natives against the corruptions or oppressions of British subjects in power. Though they do find one very strong and marked instance of the judges having employed an unwarrantable extension or application of the municipal law of England, to destroy a person of the highest rank among those natives, whom they were sent to protect. One circumstance rendered the proceeding in this case fatal to all the good purposes for which the court had been established. The sufferer (the Rajah Nundcomar) appears, at the very time of this extraordinary prosecution, a discoverer of some particulars of illicit gain then charged upon Mr. Hastings, the governour-general. Although, in ordinary cases, and in some lesser instances of grievance, it is very probable that this court has done its duty, and has been, as every court must be, of some service; yet one example of this kind must do more towards deterring the natives from complaint, and consequently from the means of redress, than many decisions favourable to them, in the ordinary course of proceeding, can do for their encouragement and relief. So far as your committee have been able to discover, the court has been generally terrible to the natives, and has distracted the government of the company, without substantially reforming any one of its abuses.

This court, which in its constitution seems not to have had sufficiently in view the necessities of the people, for whose relief it was intended, and was, or thought itself bound, in some instances, to too strict an adherence to the forms and rules of English practice, in others was framed upon principles perhaps too remote from the constitution of English tribunals. By the usual course of English practice, the far greater part of the redress to be obtained against oppressions of power is by process in the nature of civil actions. In these, a trial by jury is a necessary part, with regard to the finding the offence, and to the assessment of the damages. Both these were, in the charter of justice, left entirely to the judges. It was presumed, and not wholly without reason, that the British subjects were liable to fall into factions and combinations, in order to support themselves in the abuses of an authority, of which every man might, in his turn, become a sharer. And with regard to the natives, it was presumed (perhaps a little too hastily) that they were not capable of sharing in the functions of jurors. But it was not foreseen that the judges were also liable to be engaged in the factions of the settlement; and if they should ever happen to be so engaged, that the native people were then without that remedy, which obviously lay in the clause that the court and jury though both liable to bias, might not easily unite in the same identical act of injustice. Your committee, on full inquiry, are of opinion, *that the use of juries is neither impracticable nor dangerous in Bengal.*

Your committee refer to their report, made in the year 1781, for the manner in which this

court, attempting to extend its jurisdiction, and falling with extreme severity on the native magistrates, a violent contest arose between English judges and the English civil authority. This authority, calling in the military arm, (by a most dangerous example) overpowered, and for a while suspended the functions of that court; but at length those functions which were suspended by the quarrel of the parties, were destroyed by their reconciliation, and by the arrangements made in consequence of it. By these the court was virtually annihilated; or if substantially it exists, it is to be apprehended it exists only for purposes very different from those of its institution.

The fourth object of the act of 1773 was the council general. This institution was intended to produce uniformity, consistency, and the effective co-operation of all the settlements in their common defence. By the antient constitution of the company's foreign settlements, they were each of them under the orders of a president or chief, and a council, more or fewer, according to the discretion of the company; among those, parliament (probably on account of the largeness of the territorial acquisitions, rather than the conveniency of the situation) chose Bengal for the residence of the controuling power, and, dissolving the presidency, appointed a new establishment upon a plan somewhat similar to that which had prevailed before; but the number was smaller. This establishment was composed of a governour-general and four counsellours, all named in the act of parliament. They were to hold their offices for five years, after which term the patronage was to revert to the court of directors. In the mean time, such vacancies as should happen were to be filled by that court, with the concurrence of the crown. The first governour-general and one of the counsellours had been old servants to the company, the others were new men.

On this new arrangement, the courts of proprietors and directors considered the details of commerce as not perfectly consistent with the enlarged sphere of duty and the reduced number of the council. Therefore, to relieve them from this burthen, they instituted a new office, called the Board of Trade, for the subordinate management of their commercial concerns; and appointed eleven of their senior servants to fill the commission.

The powers given by the act to the new governour-general and council had for their direct object the kingdom of Bengal and its dependencies. Within that sphere (and it is not a small one) their authority extended over all the company's concerns of whatever description. In matters of peace and war, it seems to have been meant, that the other presidencies should be subordinate to their board. But the law is loose and defective, where it professes to restrain the subordinate presidencies from making war without the consent and approbation of the supreme council. They are left free to act without it, *in cases of imminent necessity*, or, *where they shall have received special orders from the company*. The first exception leaves it open to the subordinate to judge of the necessity of measures, which, when taken, bind or involve the superior: the second refers a question of peace or war to two jurisdictions, which may give different judgments. In* both instances, cases in point have occurred. With regard to their local administration, their powers were exceedingly and dangerously loose and undetermined. Their powers were not given directly, but in words of reference, in which neither the objects related to, nor the mode of the relation, were sufficiently expressed. Their legislative and executive capacities were not so accurately drawn, and marked by such strong and penal lines of distinction, as to keep these capacities separate. Where legislative, and merely executive, powers were lodged in the same hands, the legislative, which is the larger and the more ready for all occasions, was constantly resorted to. The governour-general and council, therefore, immediately gave construction to their ill-defined authority, which rendered it perfectly despotick; constructions, which if they were allowed, no action of theirs ought to be regarded as criminal.

Armed as they were with an authority in itself so ample, and by abuse so capable of an unlimited extent, very few, and these very insufficient, correctives were administered. Ample salaries were provided for them, which indeed removed the necessity, but by no means the inducements, to corruption and oppression. Nor was any barrier whatsoever opposed on the part of the natives against their injustice; except the supreme court of judicature which never could be capable of controulling a government with such powers, without becoming such a government itself.

There was indeed a prohibition against all concerns in trade to the whole council, and against all taking of presents by any in au-

* See the secret committee's reports on the Mahratta war.

thority. A right of prosecution in the king's bench was also established; but it was a right, the exercise of which is difficult, and in many, and those the most weighty, cases impracticable. No considerable facilities were given to prosecutions in parliament; nothing was done to prevent complaint from being far more dangerous to the sufferer than injustice to the oppressour. No overt acts were fixed, upon which corruption should be presumed, in transactions, of which secrecy and collusion formed the very basis; no rules of evidence, nor authentic mode of transmission, were settled in conformity to the unalterable circumstances of the country and the people.

One provision, indeed, was made for restraining the servants, in itself very wise and substantial; a delinquent, once dismissed, could not be restored but by the votes of three-fourths of the directors and three-fourths of the proprietors: this was well aimed. But no method was settled for bringing delinquents to the question of removal; and if they should be brought to it, a door lay wide open for evasion of the law, and for a return into the service, in defiance of its plain intention; that is, by resigning, to avoid removal; by which measure this provision of the act has proved as unoperative as all the rest. By this management, a mere majority may bring in the greater delinquent, whilst the person, removed for offences comparatively trivial, may remain excluded for ever.

The new council nominated in the act was composed of two totally discordant elements, which soon distinguished themselves into permanent parties. One of the principal instructions, which the three members of the council sent immediately from England, namely, General Clavering, Colonel Monson, and Mr. Francis, carried out with them, was, to "*cause the strictest inquiry to be made into all oppressions and abuses*," among which the *practice of receiving presents from the natives*, at that time generally charged upon men in power, was principally aimed at.

Presents to any considerable value were justly reputed by the legislature not as marks of attention and respect, but as bribes or extortions; for which either the beneficial and gratuitous duties of government were sold, or they were the price paid for acts of partiality; or finally, they were sums of money extorted from the givers by the terrours of power. Against the system of presents, therefore, the new commission was, in general opinion, particularly pointed. In the commencement of reformation, at a period when a rapacious conquest had overpowered and succeeded to a corrupt government, an act of indemnity might have been thought advisable; perhaps a new account ought to have been opened; all retrospect ought to have been forbidden, at least to certain periods. If this had not been thought advisable, none in the higher departments of a suspected and decried government ought to have been kept in their posts, until an examination had rendered their proceedings clear, or until length of time had obliterated, by an even course of irreproachable conduct, the errours, which so naturally grow out of a new power. But the policy adopted was different: it was to begin with *examples*. The cry against the abuses was strong and vehement throughout the whole nation, and the practice of presents was represented to be as general as it was mischievous. In such a case, indeed in any case, it seemed not to be a measure the most provident, without a great deal of previous inquiry, to place two persons, who from their situation must be the most exposed to such imputations, in the commission, which was to inquire into their own conduct; much less to place one of them at the head of that commission, and with a casting vote, in case of an equality. The persons, who could not be liableto that charge, were indeed three to two; but any accidental difference of opinion, the death of any one of them, or his occasional absence or sickness, threw the whole power into the hands of the other two, who were Mr. Hastings and Mr. Barwell, one the president, and the other high in the council of that establishment, on which the reform was to operate. Thus those, who were liable to process as delinquents, were in effect, set over the reformers; and that did actually happen, which might be expected to happen from so preposterous an arrangement; a stop was soon put to all inquiries into the capital abuses.

Nor was the great political end, proposed in the formation of a superintending council over all the presidencies, better answered than that of an inquiry into corruptions and abuses. The several presidencies have acted, in a great degree, upon their own separate authority, and as little of unity, concert, or regular system has appeared in their conduct, as was ever known before this institution. India is indeed so vast a country, and the settlements are so divided, that their intercourse with each other is liable to as many delays and difficulties as the intercourse between distant and separate states. But one evil may possibly have arisen from an attempt to produce an

union, which, though undoubtedly to be aimed at, is opposed in some degree by the unalterable nature of their situation, that it has taught the servants rather to look to a superiour among themselves than to their common superiours. This evil, growing out of the abuse of subordination, can only be corrected by a very strict enforcement of authority over that part of the chain of dependence, which is next to the original power.

That which your committee considers as the fifth and last of the capital objects of the act, and as the binding regulation of the whole, is the introduction (then for the first time) of the ministers of the crown into the affairs of the company. The state claiming a concern and share of property in the company's profits, the servants of the crown were presumed the more likely to preserve, with a scrupulous attention, the sources of the great revenues which they were to administer, and for the rise and fall of which they were to render an account.

The interference of government was introduced by this act in two ways; one by a controul, in effect by a share, in the appointment to vacancies in the supreme council. The act provided that his majesty's approbation should be had to the persons named to that duty. Partaking thus in the patronage of the company, administration was bound to an attention to the characters and capacities of the persons employed in that high trust.

The other part of their interference was by way of inspection. By this right of inspection, every thing in the company's correspondence from India, which related to the civil or military affairs and government of the company, was directed by the act to be, within fourteen days after the receipt, laid before the secretary of state; and every thing, that related to the management of the revenues, was to be laid before the commissioners of the treasury. In fact, both descriptions of these papers have been generally communicated to that board.

It appears to your committee, that there were great and material defects in both parts of the plan. With regard to the approbation of persons nominated to the supreme council by the court of directors, no sufficient means were provided for carrying to his majesty, along with the nomination, the particulars in the conduct of those who had been in the service before, which might render them proper objects of approbation or rejection. The India House possesses an office of record capable of furnishing, in almost all cases, materials for judging on the behaviour of the servants, in their progress from the lowest to the highest stations; and the whole discipline of the service, civil and military, must depend upon an examination of these records inseparably attending every application for an appointment to the highest stations. But in the present state of the nomination, the ministers of the crown are not furnished with the proper means of exercising the power of controul intended by the law, even if they were scrupulously attentive to the use of it. There are modes of proceeding favourable to neglect. Others excite inquiry, and stimulate to vigilance.

Your committee therefore are of opinion, for the future prevention of cabal, and of private and partial representation, whether above or below, that whenever any person, who has been in the service, shall be recommended to the king's ministers to fill a vacancy in the council general, the secretary of the court of directors shall be ordered to make a strict search into the records of the company; and shall annex to the recommendation the reasons of the court of directors for their choice, together with a faithful copy of whatever may be found (if any thing can be found) relative to his character and conduct; as also an account of his standing in the company's service; the time of his abode in India; the reasons for his return; and the stations, whether civil or military, in which he has been successively placed.

With this account ought to be transmitted the names of those who were proposed as candidates for the same office, with the correspondent particulars relative to their conduct and situation; for not only the separate, but the comparative, merit probably would, and certainly ought to have, great influence in the approbation or rejection of the party presented to the ministers of the crown. These papers should be laid before the commissioners of the treasury, and one of the secretaries of state, and entered in books to be kept in the treasury and the secretary's office.

These precautions, in case of the nomination of any who have served the company, appear to be necessary, from the improper nomination and approbation of Mr. John Macpherson, notwithstanding the objections which stood against him on the company's records. The choice of Mr. John Stables, from an inferiour military to the highest civil capacity, was by no means proper, nor an encouraging example to either service. His conduct indeed, in the subaltern military

situation, had received, and seems to have deserved, commendation; but no sufficient ground was furnished for confounding the lines and gradations of service. This measure was, however, far less exceptionable than the former; because, an irregular choice of a less competent person, and the preference given to proved delinquency in prejudice to uncensured service, are very different things. But even this latter appointment would in all likelihood have been avoided, if rules of promotion had been established. If such rules were settled, candidates qualified from ability, knowledge, and service, would not be discouraged, by finding that every thing was open to every man; and that favour alone did not stand in the place of civil or military experience. The elevation from the lowest stations unfaithfully and negligently filled to the highest trusts, the total inattention to rank and seniority, and much more the combination of this neglect of rank with a confusion (unaccompanied with strong and evident reasons) of the lines of service, cannot operate as useful examples on those who serve the publick in India. These servants, beholding men, who have been condemned for improper behaviour to the company in inferiour civil stations, elevated above them, or (what is less blameable, but still mischievous) persons without any distinguished civil talents, taken from the subordinate situations of another line, to their prejudice, will despair, by any good behaviour, of ascending to the dignities of their own; they will be led to improve to the utmost advantage of their fortune the lower stages of power, and will endeavour to make up in lucre what they can never hope to acquire in station.

The temporary appointment by parliament, of the supreme council of India, arose from an opinion, that the company, at that time at least, was not in a condition, or not disposed to a proper exercise of the privileges which they held under their charter. It therefore behoved the directors to be particularly attentive to their choice of counsellours, on the expiration of the period during which their patronage had been suspended. The duties of the supreme council had been reputed of so arduous a nature, as to require legislative interposition. They were called upon, by all possible care and impartiality, to justify parliament, at least as fully in the restoration of their privileges, as the circumstances of the time had done in their suspension.

But interests have lately prevailed in the court of directors, which, by the violation of every rule, seemed to be resolved on the destruction of those privileges, of which they were the natural guardians. Every new power given has been made the source of a new abuse; and the acts of parliament themselves, which provide but imperfectly for the prevention of the mischief, have, it is to be feared, made provisions (contrary, without doubt, to the intention of the legislature,) which operate against the possibility of any cure in the ordinary course.

In the original institution of the supreme council, reasons may have existed against rendering the tenure of the counsellours in their office precarious. A plan of reform might have required the permanence of the persons, who were just appointed by parliament, to execute it; but the act of one thousand seven hundred and eighty, gave a duration co-existent with the statute itself to a council not appointed by act of parliament, nor chosen for any temporary or special purpose. By which means, the servants in the highest situation, let their conduct be never so grossly criminal, cannot be removed, unless the court of directors and ministers of the crown can be found to concur in the same opinion of it. The prevalence of the Indian factions in the court of directors and court of proprietors, and sometimes in the state itself, renders this agreement extremely difficult: if the principal members of the direction should be in a conspiracy with any principal servant under censure, it will be impracticable, because the first act must originate there. The reduced state of the authority of this kingdom in Bengal, may be traced, in a great measure, to that very natural source of independence. In many cases, the instant removal of an offender from his power of doing mischief, is the only mode of preventing the utter, and perhaps, irretrievable ruin of publick affairs. In such a case, the process ought to be simple, and the power absolute in one, or in either hand separately. By contriving the balance of interests formed in the act, notorious offence, gross error, or palpable insufficiency, have many chances of retaining and abusing authority, whilst the variety of representations, hearings, and conferences, and possibly the mere jealousy and competition between rival powers, may prevent any decision; and at length give time and means for settlements and compromises among parties, made at the expense of justice and true policy. But this act of one thousand seven hundred and eighty, not properly distinguishing judicial process from executive arrangements, requires, in

effect, nearly the same degree of solemnity, delay and detail for removing a political inconvenience, which attends a criminal proceeding for the punishment of offences. It goes further, and gives the same tenure to all who shall succeed to vacancies, which was given to those whom the act found in office.

Another regulation was made in the act, which has a tendency to render the controul of delinquency, or the removal of incapacity, in the council general, extremely difficult as well as to introduce many other abuses into the original appointment of counsellours. The inconveniences of a vacancy in that important office, at a great distance from the authority that is to fill it, were visible; but your committee have doubts whether they balance the mischief, which may arise from the power given in this act, of a provisional appointment to vacancies, not on the event, but on foresight. This mode of providing for the succession has a tendency to promote cabal, and to prevent inquiry into the qualifications of the persons to be appointed. An attempt has been actually made in consequence of this power, in a very marked manner, to confound the whole order and discipline of the company's service. Means are furnished thereby for perpetuating the powers of some given court of directors. They may forestal the patronage of their successours; on whom they entail a line of supreme counsellours and governours-general. And if the exercise of this power should happen in its outset to fall into bad hands, the ordinary chances for mending an ill choice upon death or resignation are cut off.

In these provisional arrangements, it is to be considered, that the appointment is not in consequence of any marked event, which calls strongly on the attention of the publick; but is made at the discretion of those who lead in the court of directors; and they may therefore be brought forward at times the most favourable to the views of partiality and corruption. Candidates have not, therefore, the notice that may be necessary for their claims; and as the possession of the office, to which the survivors are to succeed, seems remote, all inquiry into the qualifications and character of those who are to fill it will naturally be dull and languid.

Your committee are not also without a grounded apprehension of the ill effect, on any existing council general, of all strong marks of influence and favour, which appear in the subordinates of Bengal. This previous designation to a great and arduous trust, (the greatest that can be reposed in subjects) when made out of any regular course of succession, marks that degree of countenance and support at home, which may overshadow the existing government. That government may thereby be disturbed by factions, and led to corrupt and dangerous compliances. At best, when these counsellours-elect are engaged in no fixed employment, and have no lawful intermediate emolument, the natural impatience for their situations may bring on a traffick for resignations between them and the persons in possession, very unfavourable to the interests of the publick, and to the duty of their situations.

Since the act, two persons have been nominated to the ministers of the crown, by the court of directors, for this succession. Neither has yet been approved. But by the description of the persons, a judgment may be formed of the principles on which this power is likely to be exercised.

Your committee find, that in consequence of the above mentioned act, the Honourable Charles Stuart and Mr. Sulivan, were appointed to succeed to the first vacancies in the supreme council. Mr. Stuart's first appointment in the company's service was in the year one thousand seven hundred and sixty-one. He returned to England in 1775, and was permitted to go back to India in 1780. In August, 1781, he was nominated by the court of directors (Mr. Sulivan and Sir William James were chairman and deputy chairman) to succeed to the first vacancy in the supreme council, and on the 19th of September following, his majesty's approval of such nomination was requested.

In the nomination of Mr. Stuart, the consideration of rank in the service was not neglected; but if the court of directors had thought fit to examine their records, they would have found matter at least strongly urging them to a suspension of this appointment, until the charges against Mr. Stuart should be fully cleared up. That matter remained (as it still remains) unexplained from the month of May, 1775, where, on the Bengal revenue consultations of the 12th of that month, peculations to a large amount are charged upon oath against Mr. Stuart, under the following title: "*The particulars of the money unjustly taken by Mr. Stuart, during the time he was at Burdwan.*" The sum charged against him in this account, is 2,17,-684 sicca rupees, (that is, 25,253 pounds sterling:) beside which, there is another account, with the following title: "*The particulars of*

the money unjustly taken by Callypersaud Bose, Banyan to the Honourable Charles Stuart, Esquire, at Burdwan, and amounting to sicca rupees 1,01,675," (that is, 11,785 pounds)—a large sum to be received by a person in that subordinate situation.

The minuteness with which these accounts appear to have been kept, and the precision with which the date of each particular, sometimes of very small sums, is stated, give them the appearance of authenticity, as far as it can be conveyed on the face, or in the construction of such accounts; and if they were forgeries, laid them open to an easy detection. But no detection is easy when no inquiry is made. It appears an offence of the highest order in the directors concerned in this business, when not satisfied with leaving such charges so long unexamined, they should venture to present to the king's servants, the object of them for the highest trust, which they have to bestow. If Mr. Stuart was really guilty, the possession of this post must furnish him, not only with the means of renewing the former evil practises charged upon him, and of executing them upon a still larger scale; but of oppressing those unhappy persons, who, under the supposed protection of the faith of the company, had appeared to give evidence concerning his former misdemeanours.

This attempt in the directors was the more surprising, when it is considered, that two committees of this house were, at that very time, sitting upon an inquiry, that related directly to their conduct, and that of their servants in India.

It was in the same spirit of defiance of parliament, that at the same time they nominated Mr. Sulivan, son to the then chairman of the court of directors, to the succession to the same high trust in India. On these appointments your committee thought it proper to make those inquiries which the court of directors thought proper to omit. They first conceived it fitting to inquire what rank Mr. Sulivan bore in the service; and they thought it not unnecessary here to state the gradations in the service, according to the established usage of the company.

The company's civil servants generally go to India as *writers;* in which capacity they serve the company *five years.* The next step in point of rank is to be a *factor*, and next to that, a *junior merchant;* in each of which capacities they serve the company *three years.* They then rise to the rank of *senior merchant*, in which situation they remain till called by rotation to the board of trade. Until the passing of the regulation act in 1773, seniority entitled them to succeed to the *council*, and finally, gave them pretensions to the *government of the presidency.*

The above gradation of the service, your committee conceive, ought never to be superseded by the court of directors, without evident reason, in persons or circumstances, to justify the breach of an antient order. The names, whether taken from civil or commercial gradation, are of no moment. The order itself is wisely established, and tends to provide a natural guard against partiality, precipitancy, and corruption in patronage. I affords means and opportunities for an examination into character; and among the servants it secures a strong motive to preserve a fair reputation. Your committee find, that no respect whatsoever was paid to this gradation in instance of Mr. Sulivan, nor is there any reason assigned for departing from it. They do not find that Mr. Sulivan had ever served the company in any one of the above capacities, but was, in the year 1777, abruptly brought into the service, and sent to Madras to succeed as Persian translator and secretary to the council.

Your committee have found a letter from Mr. Sulivan to George Wombwell and William Devaynes, Esquires, chairman and deputy chairman of the court of directors, stating, that he trusted *his applications* would have a place in their deliberations when Madras affairs were taken up. Of what nature those applications were, your committee cannot discover, as no traces of them appear on the company's records; nor whether any proofs of his ability, even as Persian translator exist, which might entitle him to a preference to the many servants in India, whose study and opportunities afforded them the means of becoming perfect masters of that language.

On the above letter your committee find, that the committee of correspondence proceeded; and, on their recommendation, the court of directors unanimously approved of Mr. Sulivan to be appointed to succeed to the posts of secretary and Persian translator.

Conformably to the orders of the court, Mr. Sulivan succeeded to those posts; and the president and council acquainted the court of directors, that they had been obeyed. About five months after, it appears that Mr. Sulivan thought fit to resign the office of Persian translator, to which he had been appointed by the directors. In April, 1780, Mr. Sulivan is commended for his *great diligence as secretary;* in August following he obtains leave to

accompany Mrs. Sulivan to Bengal, whence she is to proceed to Europe on account of her health; and he is charged with a commission from the president and council of Fort Saint-George, to obtain for that settlement supplies of grain, troops, and money, from the governour-general and council of Bengal. In October the governour-general requests permission of the council there to employ Mr. Sulivan as his *assistant*, for that he had experienced (between his arrival in Bengal and that time) the abilities of Mr. Sulivan, and made choice of him as *completely qualified for that trust;* also requests the board to appoint him judge advocate-general; and likewise to apply to the presidency of Madras, for him to remain in Bengal without prejudice to his rank on their establishment; which several requests the board at Madras readily complied with, notwithstanding their natural sensibility to the loss of a secretary of such ability and diligence as they had described Mr. Sulivan to be.

On the 5th of December following, the president and council received a letter from Bengal, requesting that Mr. Sulivan might be allowed to keep his rank. This request brought on some discussion. A Mr. Freeman, it seems, who had acted under Mr. Sulivan as sub-secretary, whilst his principal obtained so much praise for his diligence, addressed the board on the same day, and observed, "That since Mr. Sulivan's arrival, *he*, [Mr. Freeman] had *without intermission*, done almost the *whole* of the duty allotted to the post of secretary, *which it was notorious Mr. Sullivan had paid but little attention to;* and neither his inclination nor duty led him to act any longer as Mr. Sulivan's deputy."

Here your committee cannot avoid remarking the direct contradiction, which this address of Mr. Freeman's gives to the letter from the president and council to the court of directors in April, 1780, wherein Mr. Sulivan is praised for his "diligence and attention in his office of secretary."

The president and council do not show any displeasure at Mr. Freeman's representation (so contrary to their own,) the truth of which they thus tacitly admit, but agree to write to the governour-general and council, "That it could not be supposed that they could carry on the publick business for any length of time without the *services of a secretary* and clerk of appeals, two offices that required personal attendance, and which would be a general injury to the servants on their establishment, and in particular to the persons who acted in those capacities, as they learnt that Mr. Sulivan had been appointed judge advocate-general in Bengal; and to request the governour-general and council to inform Mr. Sulivan of their sentiments, and to desire him to inform them, whether he meant to return to his station, or to remain in Bengal."

On the 5th December, as a mark of their approbation of Mr. Freeman, who had so plainly contradicted their opinion of Mr. Sulivan, the president and council agree to appoint him to act as secretary and clerk of appeals till Mr. Sulivan's answer should arrive, with the emoluments, and to confirm him therein, if Mr. Sulivan should remain in Bengal.

On the 14th February, 1781, the president and council received a letter from Bengal in reply, and stating their request that Mr. Sulivan might reserve the right of returning to his original situation on the Madras establishment, if the court of directors should disapprove of his being transferred to Bengal. To this request the board at Madras declare they have no objection: and here the matter rests; the court of directors not having given any tokens of approbation or disapprobation of the transaction.

Such is the history of Mr. Sulivan's service from the time of his appointment: such were the qualifications, and such the proofs of assiduity and diligence given by him, in holding so many incompatible offices (as well as being engaged in other dealings, which will appear in their place) when, after three years' desultory residence in India, he was thought worthy to be nominated to the succession to the supreme council. No proof whatsoever of distinguished capacity in any line preceded his original appointment to the service; so that the whole of his fitness for the supreme council rested upon his conduct and character since his appointment as Persian translator.

Your committee find that his majesty has not yet given his approbation to the nomination, made by the court of directors on the 30th of August, 1781, of Messrs. Stuart and Sulivan to succeed to the supreme council on the first vacancies, though the court applied for the royal approbation so long ago as the 19th of September, 1781; and in these instances the king's ministers performed their duty, in withholding their countenance from a proceeding so exceptionable, and of so dangerous an example.

Your committee, from a full view of the situation and duties of the court of directors, are of opinion, that effectual means ought to to be taken for regulating that court, in such

a manner as to prevent either rivalship with, or subserviency to, their servants. It might therefore be proper for the house to consider, whether it is fit that those who are, or have been within some given time, directors of the company, should be capable of an appointment to any offices in India. Directors can never properly govern those for whose employments they are or may be themselves candidates; they can neither protect nor coerce them with due impartiality or due authority.

If such rules as are stated by your committee under this head were observed in the regular service at home and abroad, the necessity of superseding the regular service by strangers would be more rare; and whenever the servants were so superseded, those who put forward other candidates, would be obliged to produce a strong plea of merit and ability, which, in the judgment of mankind, ought to overpower pretensions so authentically established, and so rigorously guarded from abuse.

The second object in this part of the plan of the act of 1773, namely, that of inspection by the ministers of the crown, appears not to have been provided for, so as to draw the timely and productive attention of the state on the grievances of the people of India, and on the abuses of its government. By the regulating act, the ministers were enabled to inspect one part of the correspondence, that which was received in England; but not which went outward. They might know something, but that very imperfectly and unsystematically, of the state of affairs; but they were neither authorized to advance nor to retard any measure taken by the directors, in consequence of that state: they were not provided even with sufficient means of knowing what any of these measures were. And this imperfect information, together with the want of a direct call to any specific duty, might have in some degree occasioned that remissness which rendered even the imperfect powers originally given by the act of 1773 the less efficient. This defect was in a great measure remedied by a subsequent act: but that act was not passed until the year 1780.

Your committee find, that during the whole period which elapsed from 1773 to the commencement of 1782, disorders and abuses of every kind multiplied. Wars, contrary to policy, and contrary to public faith, were carrying on in various parts of India. The allies, dependents, and subjects of the company were every where oppressed; dissensions in the supreme council prevailed, and continued for the greater part of that time; the contests between the civil and judicial powers threatened that issue, to which they came at last, an armed resistance to the authority of the king's court of justice; the orders, which by an act of parliament the servants were bound to obey, were avowedly, and on principle, contemned; until at length the fatal effects of accumulated misdemeanours abroad and neglects at home broke out in the alarming manner which your committee have so fully reported to this house.

In all this time the true state of the several presidencies, and the real conduct of the British government towards the natives, was not at all known to parliament; it seems to have been very imperfectly known, even to ministers. Indeed it required an unbroken attention, and much comparison of facts and reasonings, to form a true judgment on that difficult and complicated system of politics, revenue, and commerce, whilst affairs were only in their progress to that state which produced the present inquiries. Therefore, whilst the causes of their ruin were in the height of their operation, both the company and the natives were understood by the publick as in circumstances the most assured and most flourishing. Insomuch that whenever the affairs of India were brought before parliament, as they were two or three times during that period, the only subject-matter of discussion, anywise important, was concerning the sums which might be taken out of the company's surplus profits for the advantage of the state. Little was thought of but the disengagement of the company from their debts in England, and to prevent the servants abroad from drawing upon them, so as that body might be enabled, without exciting clamours here, to afford the contribution that was demanded. All descriptions of persons, either here or in India, looking solely to appearances at home, the reputation of the directors depended on the keeping the company's sales in a situation to support the dividend; that of the ministers depended on the most lucrative bargains for the exchequer; and that of the servants abroad on the largest investments; until at length there is great reason to apprehend, that, unless some very substantial reform takes place in the management of the company's affairs, nothing will be left for investment, for dividend, or for bargain; and India, instead of a resource to the publick, may itself come, in no great length of time, to be reckoned amongst the publick burthens.

In this manner, the inspection of the ministers of the crown, the great cementing regu-

lation of the whole act of 1773, has, along with all the others, entirely failed in its effects.

Your committee, in observing on the failure of this act, do not consider the intrinsick defects or mistakes in the law itself as the sole cause of its miscarriage. The general policy of the nation with regard to this object has been, they conceive, erroneous; and no remedy by laws under the prevalence of that policy can be effectual. Before any remedial law can have its just operation, the affairs of India must be restored to their natural order. The prosperity of the natives must be previously secured before any profit from them whatsoever is attempted. For as long as a system prevails, which regards the transmission of great wealth to this country, either for the company or the state, as its principal end, so long will it be impossible that those who are the instruments of that scheme, should not be actuated by the same spirit for their own private purposes. It will be worse: they will support the injuries done to the natives for their selfish ends, by new injuries done in favour of those before whom they are to account. It is not reasonably to be expected, that a publick, rapacious and improvident, should be served by any of its subordinates with disinterestedness or foresight.

II.—CONNECTION OF GREAT BRITAIN WITH INDIA.

In order to open more fully the tendency of the policy which has hitherto prevailed, and that the house may be enabled, in any regulations which may be made, to follow the tracks of the abuse, and to apply an appropriated remedy to a particular distemper, your committee think it expedent to consider, in some detail, the manner in which India is connected with this kingdom; which is the second head of their plan.

The two great links by which this connection is maintained, are, first, the East-India company's commerce; and next, the government set over the natives by that company, and by the crown. The first of these principles of connections namely, the East-India company's trade, is to be first considered, not only as it operates by itself, but as having a powerful influence over the general policy and the particular measures of the company's government. Your committee apprehend that the present state, nature, and tendency of this trade are not generally understood.

Until the acquisition of great territorial revenues by the East-India company, the trade with India was carried on upon the common principles of commerce, namely, by sending out such commodities as found a demand in the India market, and where that demand was not adequate to the reciprocal call of the European market for Indian goods, by a large annual exportation of treasure, chiefly in silver. In some years that export has been as high as six hundred and eighty thousand pounds sterling. The other European companies, trading to India, traded thither on the same footing. Their export of bullion was probably larger in proportion to the total of their commerce; as their commerce itself bore a much larger proportion to the British than it does at this time, or has done for many years past. But stating it to be equal to the British, the whole of the silver sent annually from Europe into Hindostan could not fall very short of twelve or thirteen hundred thousand pounds a year. This influx of money, poured into India by an emulation of all the commercial nations of Europe, encouraged industry, and promoted cultivation in a high degree; notwithstanding the frequent wars with which that country was harassed, and the vices which existed in its internal government. On the other hand, the export of so much silver was sometimes a subject of grudging and uneasiness in Europe; and a commerce carried on through such a medium, to many appeared in speculation of doubtful advantage. But the practical demands of commerce bore down those speculative objections. The East-India commodities were so essential for animating all other branches of trade, and for completing the commercial circles, that all nations contended for it with the greatest avidity. The English company flourished under this exportation for a very long series of years. The nation was considerably benefitted both in trade and in revenue; and the dividends of the proprietors were often high, and always sufficient to keep up the credit of the company's stock in heart and vigour.

But at, or very soon after the acquisition of the territorial revenues to the English company, the period of which may be reckoned as completed about the year 1765, a very great revolution took place in commerce as well as in dominion; and it was a revolution which affected the trade of Hindostan with all other European nations, as well as with that in whose favour and by whose power it was accomplished. From that time bullion was no longer regularly exported by the English East-India company to Bengal, or any part

of Hindostan; and it was soon exported in much smaller quantities by any other nation. A new way of supplying the market of Europe, by means of the British power and influence, was invented; a species of trade (if such it may be called) by which it is absolutely impossible that India should not be radically and irretrievably ruined, although our possessions there were to be ordered and governed upon principles diametrically opposite to those which now prevail in the system and practice of the British company's administration.

A certain portion of the revenues of Bengal has been for many years set apart to be employed in the purchase of goods for exportation to England, and this is called the *investment*. The greatness of this investment has been the standard by which the merit of the company's principal servants has been too generally estimated; and this main cause of the impoverishment of India has been generally taken as a measure of its wealth and prosperity. Numerous fleets of large ships, loaded with the most valuable commodities of the east, annually arriving in England in a constant and increasing succession, imposed upon the publick eye, and naturally gave rise to an opinion of the happy condition and growing opulence of a country, whose surplus productions occupied so vast a space in the commercial world. This export from India seemed to imply also a reciprocal supply, by which the trading capital employed in those productions was continually strengthened and enlarged. But the payment of a tribute, and not a beneficial commerce to that country, wore this specious and delusive appearance.

The fame of a great territorial revenue, exaggerated, as is usual in such cases, beyond even its value, and the abundant fortunes of the pany's officers, military, and civil, which flowed into Europe with a full tide, raised in the proprietors of East-India stock a premature desire of partaking with their servants in the fruits of that splendid adventure. Government also thought they could not be too early in their claims for a share of what they considered themselves as entitled to in every foreign acquisition made by the power of this kingdom, through whatever hands, or by whatever means it was made. These two parties, after some struggle, came to an agreement to divide between them the profits which their speculation proposed to realize in England from the territorial revenue in Bengal. About two hundred thousand pounds were added to the annual dividends of the proprietors. Four hundred thousand were given to the state; which, added to the old dividend, brought a constant charge upon the mixt interest of Indian trade and revenue of eight hundred thousand pounds a year; this was to be provided for at all events.

By that vast demand on the territorial fund, the correctives and qualifications which might have been gradually applied to the abuses in Indian commerce and government, were rendered extremely difficult.

The practice of an investment from the revenue began in the year 1776, before arrangements were made for securing and appropriating an assured fund for that purpose in the treasury, and for diffusing it from thence upon the manufactures of the country in a just proportion, and in the proper season. There was, indeed, for a short time, a surplus of cash in the treasury. It was in some shape to be sent home to its owners. To send it out in silver was subject to two manifest inconveniences:—First, the country would be exhausted of its circulating medium. A scarcity of coin was already felt in Bengal. Cossim Ali Khan (the nabob whom the company's servants had lately set up and newly expelled) during the short period of his power, had exhausted the country by every mode of extortion; in his flight he carried off an immense treasure, which has been variously computed, but by none at less than three millions sterling. A country so exhausted of its coin, and harassed by three revolutions rapidly succeeding each other, was rather an object that stood in need of every kind of refreshment and recruit, than one which could subsist under new evacuations. The next and equally obvious inconvenience was to the company itself. To send silver into Europe would be to send it from the best to the worst market. When arrived, the most profitable use which could be made of it, would be to send it back to Bengal, for the purchase of Indian merchandise: it was necessary, therefore, to turn the company's revenue into its commerce. The first investment was about five hundred thousand pounds, and care was taken afterwards to enlarge it. In the years 1767 and 1768 it arose to seven hundred thousand.

This new system of trade, carried on through the medium of power and public revenue, very soon produced its natural effects. The loudest complaints arose among the natives, and among all the foreigners who traded to Bengal. It must unquestionably have thrown the whole mercantile system of the

country into the greatest confusion. With regard to the natives, no expedient was proposed for their relief. The case was serious with respect to European powers. The presidency plainly represented to the directors, that some agreement should be made with foreign nations, for providing their investment to a certain amount, or that the deficiencies then subsisting must terminate in an open rupture with France. The directors, pressed by the large payments in England, were not free to abandon their system; and all possible means of diverting the manufactures into the company's investment were still anxiously sought and pursued, until the difficulties of the foreign companies were at length removed by the natural flow of the fortunes of the company's servants into Europe, in the manner which will be stated hereafter.

But with all these endeavours of the presidency, the investment sunk in 1769, and they were even obliged to pay for a part of the goods to private merchants, in the company's bonds bearing interest. It was plain that this course of business could not hold. The manufacturers of Bengal, far from being generally in a condition to give credit, have always required advances to be made to them; so have the merchants very generally: at least, since the prevalence of the English power in India. It was necessary, therefore, and so the presidency of Calcutta represented the matter, to provide beforehand a year's advance. This required great efforts, and they were made. Notwithstanding the famine in 1770, which wasted Bengal in a manner dreadful beyond all example, the investment, by a variety of successive expedients, many of them of the most dangerous nature and tendency, was forcibly kept up; and even in that forced and unnatural state, it gathered strength almost every year. The debts contracted in the infancy of the system were gradually reduced, and the advances to contractors and manufacturers were regularly made; so that the goods from Bengal, purchased from the territorial revenues, from the sale of European goods, and from the produce of the monopolies for the four years which ended with 1780 (when the investment from the surplus revenues finally closed) were never less than a million sterling, and commonly nearer twelve hundred thousand pounds. This million is the lowest value of the goods sent to Europe, for which no satisfaction is made.*

About an hundred thousand pounds a year is also remitted from Bengal, on the company's account, to China; and the whole of the product of that money flows into the direct trade from China to Europe. Beside this, Bengal sends a regular supply, in time of peace, to those presidencies which are unequal to their own establishment. To Bombay, the remittance in money, bills, or goods, for none of which there is a return, amounts to one hundred and sixty thousand pounds a year, at a medium.

The goods, which are exported from Europe to India, consist chiefly of military and naval stores, of clothing for troops, and of other objects for the consumption of the Europeans residing there; and, excepting some lead, copper utensils and sheet copper, woollen cloth, and other commodities of little comparative value, no sort of merchandise is sent from England, that is in demand for the wants or desires of the native inhabitants.

When an account is taken of the intercourse (for it is not commerce) which is carried on between Bengal and England, the pernicious effects of the system of investment from revenue will appear in the strongest point of view. In that view, the whole exported produce of the country (so far as the company is concerned) is not exchanged in the course of barter; but is taken away without any return or payment whatsoever. In a commercial light, therefore, England becomes annually bankrupt to Bengal, to the amount nearly of its own dealing; or rather, the country has suffered what is tantamount to an annual plunder of its manufactures and its produce to the value of twelve hundred thousand pounds.

In time of peace, three foreign companies appear at first sight to bring their contribution of trade to the supply of this continual drain. These are the companies of France, Holland and Denmark. But when the object is considered more nearly, instead of relief, these companies, who from their want of authority in the country might seem to trade upon a principle merely commercial, will be found to add their full proportion to the calamity brought upon Bengal by the destructive system of the ruling power; because the greater part of the capital of all these companies, and perhaps the whole capital of some of them, is furnished exactly as the British is, out of the revenues of the

* The sale, to the amount of about one hundred thousand pounds annually, of the export from Great Britain, ought to be deducted from this million.

country. The civil and military servants of the English East-India company, being restricted in drawing bills upon Europe, and none of them ever making or proposing an establishment in India, a very great part of their fortunes, well or ill gotten, is in all probability thrown, as fast as required, into the cash of these companies.

In all other countries, the revenue, following the natural course and order of things, arises out of their commerce. Here, by a mischievous inversion of that order, the whole foreign maritime trade, whether English, French, Dutch, or Danish, arises from the revenues; and these are carried out of the country, without producing any thing to compensate so heavy a loss.

Your committee have not been able to discover the entire value of the investment made by foreign companies. But as the investment, which the English East-India company derived from its revenues, and even from its publick credit, is for the year 1783 to be wholly stopped, it has been proposed to private persons to make a subscription for an investment on their own account. This investment is to be equal to the sum of eight hundred thousand pounds. Another loan has been also made for an investment on the company's account to China, of two hundred thousand pounds. This makes a million; and there is no question, that much more could be readily had for bills upon Europe. Now, as there is no doubt that the whole of the money remitted is the property of British subjects, (none else having any interest in remitting to Europe,) it is not unfair to suppose, that a very great part, if not the whole of what may find its way into this new channel, is not newly created; but only diverted from those channels, in which it formerly ran, that is, the cash of the foreign trading companies.

Beside the investment made in goods by foreign companies from the funds of British subjects, these subjects have been for some time in the practice of sending very great sums in gold and silver directly to China on their own account. In a memorial presented to the governour-general and council, in March, 1782, it appears, that the principal money lent by British subjects to one company of merchants in China then amounted to seven millions of dollars, about, one million seven hundred thousand pounds sterling; and not the smallest particle of silver sent to China ever returns to India. It is not easy to determine in what proportions this enormous sum of money has been sent from Madras, or from Bengal, but it equally exhausts a country belonging to this kingdom, whether it comes from the one or from the other.

But that the greatness of all these drains, and their effects, may be rendered more visible, your committee have turned their consideration to the employment of those parts of the Bengal revenue, which are not employed in the company's own investments for China and for Europe. What is taken over and above the investment (when an investment can be made) from the gross revenue, either for the charge of collection, or for civil and military establishments, is in time of peace two millions at the least. From the portion of that sum, which goes to the support of civil government, the natives are almost wholly excluded, as they are from the principal collections of revenue. With very few exceptions, they are only employed as servants and agents to Europeans, or in the inferiour departments of collections, when it is absolutely impossible to proceed a step without their assistance. For some time after the acquisition of the territorial revenue, the sum of four hundred and twenty thousand pounds a year was paid, according to the stipulation of a treaty, to the nabob of Bengal for the support of his government. This sum, however inconsiderable compared to the revenues of the province, yet, distributed through the various departments of civil administration, served in some degree to preserve the natives of the better sort, particularly those of the Mahomedan profession, from being utterly ruined. The people of that persuasion, not being so generally engaged in trade, and not having on their conquest of Bengal divested the antient Gentû proprietors of their lands of inheritance, had for their chief, if not their sole support, the share of a moderate conquerour in all offices civil and military. But your committee find that this arrangement was of a short duration. Without the least regard to the subsistence of this innocent people, or to the faith of the agreement, on which they were brought under the British government, this sum was reduced, by a new treaty, to three hundred and twenty thousand pounds; and soon after (upon a pretence of the present nabob's minority, and a temporary sequestration for the discharge of his debts) to one hundred and sixty thousand pounds: but when he arrived at his majority, and when the debts were paid, the sequestration still continued. And, so far as the late advices may be understood, the

allowance to the nabob appears still to stand at the reduced sum of one hundred and sixty thousand pounds.

The other resource of the Mahomedans, and of the Gentûs of certain of the higher casts, was the army. In this army, nine-tenths of which consists of natives, no native, of whatever description, holds any rank higher than that of a *subadar commandant*, that is, of an officer below the rank of an English subaltern, who is appointed to each company of the native soldiery.

Your committee here would be understood to state the ordinary establishment, for the war may have made some alteration: all the honourable, all the lucrative situations of the army, all the supplies and contracts, of whatever species, that belong to it, are solely in the hands of the English; so that whatever is beyond the mere subsistence of a common soldier, and some officers of a lower rank, together with the immediate expenses of the English officers at their table, is sooner or later, in one shape or another, sent out of the country.

Such was the state of Bengal even in time of profound peace, and before the whole weight of the publick charge fell upon that unhappy country for the support of other parts of India, which had been desolated in such a manner as to contribute little or nothing to their own protection.

Your committee have given this short comparative account of the effects of the maritime traffick of Bengal when in its natural state, and as it has stood since the prevalence of the system of an investment from the revenues. But before the formation of that system, Bengal did by no means depend for its resources on its maritime commerce. The inland trade, from whence it derived a very great supply of silver and gold, and many kinds of merchantable goods, was very considerable. The higher provinces of the Mogul empire were then populous and opulent, and intercourse to an immense amount was carried on between them and Bengal. A great trade also passed through these provinces from all the countries on the frontier of Persia and the frontier provinces of Tartary, as well as from Surat and Baroach on the western side of India. These parts opened to Bengal a communication with the Persian Gulf and with the Red Sea, and through them with the whole Turkish and the maritime parts of the Persian empire, beside the commercial intercourse which it maintained with those and many other countries through its own sea-ports.

During that period, the remittances to the Mogul's treasury from Bengal were never very large, at least for any considerable time; nor very regularly sent; and the impositions of the state were soon repaid with interest, through the medium of a lucrative commerce. But the disorders of Persia, since the death of Kouli Khân, have wholly destroyed the trade of that country; and the trade to Turkey, by Judda and Bussorah, which was the greatest, and perhaps the best branch of the Indian trade, is very much diminished. The fall of the throne of the Mogul emperours has drawn with it that of the great marts of Agra and Delhi. The utmost confusion of the north-western provinces followed this revolution, which was not absolutely complete, until it received the last hand from Great Britain. Still greater calamities have fallen upon the fine provinces of Rohilcund and Oude, and on the countries of Corah and Allahabad. By the operations of the British arms and influence, they are in many places turned to mere deserts, or so reduced and decayed as to afford very few materials or means of commerce.

Such is the actual condition of the trade of Bengal, since the establishment of the British power there. The commerce of the Carnatick, as far as the inquiries of your committee have extended, did not appear with a better aspect, even before the invasion of Hyder Ali Khân, and the consequent desolation; which, for many years to come, must exclude it from any considerable part of the trading system.

It appears on the examination of an intelligent person concerned in trade, and who resided at Madras for several years, that, on his arrival there, which was in the year 1767, that city was in a flourishing condition, and one of the first marts in India; but when he left it in 1779, there was little or no trade remaining, and but one ship belonging to the whole place. The evidence of this gentleman purports, that at his first acquaintance with the Carnatick it was a well cultivated and populous country, and as such, consumed many articles of merchandise; that at his departure, he left it much circumscribed in trade, greatly in the decline as to population and culture, and with a correspondent decay of the territorial revenue.

Your committee find, that there has also been from Madras an investment on the company's account, taking one year with another, very nearly on the same principles, and with the

same effects, as that from Bengal; and they think it is highly probable, that, beside the large sums remitted directly from Madras to China, there has likewise been a great deal on a private account, for that and other countries invested in the cash of foreign and European powers trading on the coast of Coromandel. But your committee have not extended their inquiries relative to the commerce of the countries dependent on Madras so far as they have done with regard to Bengal. They have reason to apprehend, that the condition is rather worse; but if the house requires a more minute examination of this important subject, your committee is willing to enter into it without delay.

III.—EFFECT OF THE REVENUE INVESTMENT ON THE COMPANY.

HITHERTO, your committee has considered this system of revenue investment, substituted in the place of a commercial link between India and Europe, so far as it affects India only: they are now to consider it as it affects the company. So long as that corporation continued to receive a vast quantity of merchantable goods, without any disbursement for the purchase, so long it possessed wherewithal to continue a dividend, to pay debts, and to contribute to the State. But it must have been always evident to considerate persons, that this vast extraction of wealth from a country, lessening in its resources in proportion to the increase of its burthens, was not calculated for a very long duration. For a while, the company's servants kept up this investment, not by improving commerce, manufactures, or agriculture, but by forcibly raising the land-rents on the principles and in the manner hereafter to be described. When these extortions disappointed, or threatened to disappoint, expectation, in order to purvey for the avarice which raged in England, they sought for expedients in breaches of all the agreements, by which they were bound by any payment to the country powers, and in exciting disturbances among all the neighbouring princes. Stimulating their ambition, and fomenting their mutual animosities, they sold to them reciprocally their common servitude and ruin.

The governour-general, Mr. Hastings, and the council, tell the directors, "That the supply for the investment has arisen from *casual* and *extraordinary* resources, which they could not expect *always* to command." In an earlier minute he expresses himself still more distinctly; he says, "If the internal resources of a state fail it, or are not equal to its *occasional* wants, whence can it obtain immediate relief, but from *external* means?" Indeed, the investment has not been for any long time the natural product of the revenue of Bengal: when by the vast charge, and by the ill return of an evil political and military traffick, and by a prodigal increase of establishments, and a profuse conduct in distributing agencies and contracts, they found themselves under difficulties, instead of being cured of their immoral and impolitick delusion, they plunged deeper into it, and were drawn from expedient to expedient for the supply of the investment, into that endless chain of wars, which this house, by its resolutions, has so justly condemned. At home these measures were sometimes countenanced, sometimes winked at, sometimes censured, but always with an acceptance of whatever profit they afforded.

At length the funds for the investment, and for these wars together, could no longer be supplied. In the year 1778, the provision for the investment from the revenues, and from the monopolies, stood very high. It was estimated at a million four hundred thousand pounds; and of this it appears that a great deal was realized. But this was the high flood-tide of the investment; for in that year they announce its probable decline; and that such extensive supplies could not be continued. The advances to the board of trade became less punctual, and many disputes arose about the time of making them. However, knowing that all their credit at home depended on the investment, or upon an opinion of its magnitude, whilst they repeat their warning of a probable deficiency, and that their "Finances bore an unfavourable aspect," in the year 1779, they rate the investment still higher. But their payments becoming less and less regular, and the war carrying away all the supplies, at length Mr. Hastings, in December, 1780, denounced sentence of approaching dissolution to this system, and tells the directors that "He bore too high a respect for their characters to treat them with the management of a preparatory and gradual introduction to an unpleasing report. That it is the *only substantial* information he shall have to convey in that letter." In confidence, therefore, of their fortitude, he tells them without ceremony, "That there will be a necessity of making a large reduc-

tion, or possibly a *total suspension* of their investment; that they had already been reduced to borrow near 700,000 pounds. This resource (says he) cannot last; it must cease at a certain period, and that perhaps not far *distant*."

He was not mistaken in his prognostick. Loans now becoming the regular resource for retrieving the investment, whose ruin was inevitable, the council enable the board of trade, in April, 1781, to grant certificates for government bonds at eight per cent. interest for about 650,000 pounds. The investment was fixed at 900,000 pounds.

But now another alarming system appeared. These new bonds overloaded the market: those which had been formerly issued were at a discount; the board of trade was obliged to advance, therefore, a fourth more than usual to the contractors. This seemed to satisfy that description of dealers. But as those who bought on agency were limited to no terms of mutual advantage, and the bonds on the new issue falling from three to eight, nine, and ten per cent. discount, the agents were unable to furnish at the usual prices. Accordingly, a discount was settled on such terms as could be made; the lowest discount, and that at two places only, was at four per cent., which, with the interest on the bonds, made (besides the earlier advance) at the least, twelve per cent. additional charge upon all goods. It was evident, that as the investment, instead of being supported by the revenues, was sunk by the fall of their credit, so the nett revenues were diminished by the daily accumulation of an interest accruing on account of the investment. What was done to alleviate one complaint thus aggravating the other, and at length proving pernicious to both, this trade on bonds likewise came to its period.

Your committee has reason to think that the bonds have since that time sunk to a discount much greater even than what is now stated. The board of trade justly denominates their resource for that year "the sinking credit of a paper currency, labouring, from the uncommon scarcity of specie, under disadvantages scarcely surmountable." From this they value themselves "on having effected an *ostensible* provision, at least for that investment." For 1783 nothing appears even ostensible.

By this failure a total revolution ensued of the most extraordinary nature, and to which your committee wish to call the particular attention of the house. For the council-general, in their letter of the 8th of April, 1782, after stating that they were disappointed in their expectations (how grounded it does not appear) "thought that they should be able to spare a sum to the board of trade" —tell the court of directors "that they had adopted a *new* method of keeping up the investment, by private subscribers for eighty lacks of rupees, which will find *cargoes for their ships* on the usual terms of privilege, at *the risk of the individuals*; and is to be repaid to *them according to the produce of the sales in England*." And they tell the directors that "a copy of the plan makes a number in their separate despatches over land."

It is impossible, in reporting this revolution to the house, to avoid remarking with what fidelity Mr. Hastings and his council have adhered to the mode of transmitting their accounts, which your committee found it necessary to mark and censure in their first report. Its pernicious tendency is there fully set forth. They were peculiarly called on for a most accurate state of their affairs, in order to explain the necessity of having recourse to such a scheme, as well as for a full and correct account of the scheme itself. But they send only the above short minute by one despatch over land, whilst the copy of the plan itself, on which the directors must form their judgment, is sent separately in another despatch over land, which has never arrived. A third despatch, which also contained the plan, was sent by a sea conveyance, and arrived late. The directors have, for very obvious reasons, ordered by a strict injunction, that they should send *duplicates of all* their despatches by *every ship*. The spirit of this rule perhaps ought to extend to every mode of conveyance. In this case, so far from sending a duplicate, they do not send even one perfect account. They announce a plan by one conveyance, and they send it by another conveyance, with other delays and other risks.

At length, at nearly four months distance, the plan has been received; and appears to be substantially that which had been announced, but developing in the particulars many new circumstances of the greatest importance. By this plan it appears that the subscription, even in idea or pretence, is not for the use of the company; but that the subscribers are united into a sort of society for the remitting their *private fortunes:* the goods, indeed, are said to be *shipped on the company's account*, and they are directed to be sold on the same account, and at the usual periods of sale; but

after the payment of duties, and such other allowances as they choose to make, in the 11th article, they provide "that the *remainder of the sales shall revert to the subscribers*, and be declared to be *their property*, and divided in proportion to *their* respective shares." The compensation which they allow in this plan to their masters for their brokerage, is, that if (after deducting all the charges which they impose) "the amount of the sales *should be found* to exceed two shillings and two pence for the current rupee of the invoice account, it shall be taken by the company." For the management of this concern in Bengal they choose commissioners by their own authority. By the same authority they form them into a body, they put them under rules and regulations, and they empower them also to make regulations of their own. They remit, by the like authority, the duties to which all private trade is subject, and they charge the whole concern with seven *per cent.* to be paid from the nett produce of the sales in England, as a recompense to the commissioners; for this the commissioners contract to bear all the charges on the goods to the time of shipping.

The servants having formed this plan of trade, and a new commission for the conduct of it, on their private account,—it is a matter of consideration to know who the commissioners are. They turn out to be the three senior servants of the company's board of trade, who choose to take upon them to be the factors of others, for large emoluments, whilst they receive salaries of two thousand pounds, and fifteen hundred pounds a year from the company. As the company have no other fund than the new investment, from whence they are to be paid for the care of their servants' property, this commission and those salaries being to take place of their brokerage, they in effect render it very difficult, if not impossible, for them to derive advantage from their new occupation.

As to the benefit of this *plan:* besides preventing the loss, which must happen from the company's ships returning empty to Europe, and the stopping of all trade between India and England, the authors of it state, that it will "*open a new channel* of remittance, and abolish the practice, by precluding the necessity of remitting *private fortunes* by *foreign bottoms;* and that it may lead to some *permanent mode* for remittance of private fortunes, and of combining it with the regular provision of the company's investment. That it will yield *some* profit to the company without risk; and the national gain will be the same as upon the regular trade."

As to the combination of this mode of remittance with the company's investment, nothing can be affirmed concerning it until some satisfactory assurance can be held out, that such an investment can ever be realized. Mr. Hastings and the gentlemen of the council have not afforded any ground for such an expectation. That the Indian trade may become a permanent vehicle of the private fortunes of the company's servants is very probable; that is, as permanent as the means of acquiring fortunes in India; but that *some profit* will accrue to the company is absolutely impossible. The company are to bear all the charge outwards, and a very great part of that homewards; and their only compensation is the surplus commission on the sale of other people's goods. The nation will undoubtedly avoid great loss and detriment, which would be the inevitable consequence of the total cessation of the trade with Bengal, and the ships returning without cargoes. But if this temporary expedient should be improved into a system, no occasional advantages to be derived from it would be sufficient to balance the mischiefs of finding a great parliamentary corporation turned into a vehicle for remitting to England the private fortunes of those for whose benefit the territorial possessions in India are, in effect and substance, under this project, to be *solely* held.

By this extraordinary scheme, the company is totally overturned, and all its relations inverted. From being a body concerned in trade on their own account, and employing servants as factors, the servants have, at one stroke, taken the whole trade into their own hands, on their own capital of eight hundred thousand pounds, at their own risk; and the company are become agents and factors to them, to sell by commission *their* goods for *their* profit.

To enable your committee to form some judgment upon the profit, which may accrue to the company from its new relation and employment, they directed, that an estimate should be made of the probable proceeds of an investment conducted on the principles of that intended to be realized for 1783. By this estimate*, which is subjoined, it appears to

* Estimate of the sale, amount, and nett proceeds in England, of the cargoes to be sent from Bengal, agreeably to the plan received by letter dated the 8th April, 1782.

This calculation supposes the 80 lack in-

your committee, that so far from any surplus profit from this transaction, the Bengal adventurers themselves, instead of realizing two shillings and two pence the rupee (the standard they fix for their payment,) will not receive the one shilling and nine pence which is its utmost value in silver at the mint; nor probably above one shilling and five pence. With this certain loss before their eyes, it is impossible that they can ever complete their subscription, unless, by management among themselves, they should be able to procure the goods for their own account upon other terms than those on which they purchased them for their masters, or unless they have for the supply of the company, on their hands, a quantity of goods, which they cannot otherwise dispose of. This latter case is not very improbable, from their proposing to send ten sixteenths of the whole investment in silk: which, as will be seen hereafter, the company has prohibited to be sent on their account, as a disadvantageous article. Nothing, but the servants being overloaded, can rationally account for their choice of so great a proportion of so dubious a commodity.

On the state made by two reports of a committee of the general court in 1782, their affairs were even then reduced to a low ebb. But under the arrangement announced by Mr. Hastings and his colleagues, it does not appear, after this period of the servants' investment, from what fund the proprietors are to make any dividend at all. The objects of the sale, from whence the dividend is to arise, are not *their* goods: they stand accountable to others for the whole probable produce. The state of the company's commerce will therefore become an object of serious consideration; an affair, as your committee apprehends, of as much difficulty as ever tried the faculties of this house. For, on the one hand it is plain, that the system of providing the company's import into Europe, resting almost wholly on an investment from its territorial revenues, has failed: during its continuance it was supported on principles fatal to the prosperity of that country. On the other hand, if the nominal commerce of the company is suffered to be carried on for the account of the servants abroad, by investing the emoluments made in their stations, these emoluments are therefore inclusively authorised, and with them the practices from which they accrue. All parliamentary attempts to reform this system will be contradictory to its institution. If, for instance, five hundred thousand pounds sterling annually be necessary for this kind of investment, any regulation which may prevent the acquisition of that sum operates against the investment which is the end proposed by the plan.

vestments will be equal to the tonnage of five ships.

b. 2. To custom	*l.* 320,000
c. 3. To freight	200,000
d. 4. To 5 per cent. duty on *l.* 1,300,000	65,000
e. 5. To 2 do. warehouse room do.	26,000
7 do. commission on *l.* 604,500	42,315
	l. 653,315
f. 6. To balance	562,185
	l. 1,215,500

a. 1. By sale amount of piece goods and raw silk	*l.* 1,300,000
Discount 6¼ per cent. allowed the Buyers	84,500
	l. 1,215,500

a. 1. The sale amount is computed on an average of the sales of the two last years' imports.

b. 2. The custom is computed on an average of what was paid on piece goods and raw silks of said imports, adding additional imposts.

c. 3. The ships going out of this season (1792), by which the above investment is expected to be sent home, are taken up at forty-seven pounds five shillings per ton for the homeward cargo; this charge amounts to thirty-five thousand eight hundred and fifteen pounds each ship; the additional wages to the men, which the company pay, and a very small charge for demurrage, will increase the freight, &c. to forty thousand pounds per ship, agreeably to the above estimate.

d. 4. The duty of five per cent. is charged by the company on the gross sale amount of all private trade licensed to be brought from India; the amount of this duty is the only benefit the company are likely to receive from the subscription investment.

e. 5. This charge is likewise made on private trade goods, and is little (if any thing) more than the real expense the company are at on account of the same, therefore no benefit will probably arise to the company from it on the sale of the said investment.

f. 6. This is the sum which will probably be realized in England, and is only equal to one shilling and five pence per rupee, on the eighty lacks subscribed.

On this new scheme (which is neither calculated for a future security nor for a present relief to the company) it is not visible in what manner the settlements in India can be at all upheld. The gentlemen in employments abroad call for the whole produce of the year's investment from Bengal; but for the payment of the counter-investment from Europe, which is, for the far greater part, sent out for the support of their power, no provision at all is made: they have not, it seems, agreed that it should be charged to their account or that any deduction should be made for it from the produce of their sales in Leadenhall-street. How far such a scheme is preferable to the total suspension of trade, your committee cannot positively determine. In all likelihood, extraordinary expedients were necessary; but the causes which induced this necessity ought to be more fully inquired into, for the last step in a series of conduct may be justifiable upon principles that suppose great blame in those which preceded it.

After your committee had made the foregoing observations upon the plan of Mr. Hastings and his colleagues transmitted to the court of directors, an extract of the Madras consultations was a few days ago laid before us. This extract contains a letter from the governour-general and council of Bengal to the presidency of fort St. George, which affords a very striking, though to your committee, by no means an unexpected picture of the instability of their opinions and conduct. On the 8th of April the servants had regularly formed and digested the above-mentioned plan, which was to form the basis for the investment of their own fortunes, and to furnish the sole means of the commercial existence of their masters. Before the 10th of the following May, which is the date of their letter to Madras, they informed Lord Macartney that they had fundamentally altered the whole scheme. "Instead (say they) of allowing the subscribers to retain an interest in the goods, they are to be provided entirely on account of the company, and transported *at their risk*; and the subscribers, instead of receiving certificates payable out of the produce of the sales in Europe, are to be granted receipts on the payment of their advances, bearing an interest of eight per cent. per annum, until exchanged for draughts on the court of directors, payable three hundred and sixty-five days after sight, at the rate of two shillings per current rupee, which draughts shall be granted in the proper time of three-eighths of the amount subscribed on the 31st of December next, and the remaining five-eighths on the 31st of December, 1783."

The plan of April divests the company of all property in Bengal goods transported to Europe; but in recompense they are free from all the risk and expense, they are not loaded with interest, and they are not embarrassed with bills. The plan of May reinstates them in their old relation, but in return, their revenues in Bengal are charged with an interest of eight per cent. on the sum subscribed, until bills shall be drawn. They are made proprietors of cargoes purchased under the disadvantage of that interest at their own hazard. They are subjected to all losses, and they are involved in Europe for payments of bills to the amount of eighty lacks of rupees, at two shillings the rupee, that is, in bills for eight hundred thousand pounds sterling. It is probably on account of the previous interests of eight per cent. that the value of the rupee on this scheme is reduced. Mr. Hastings and his colleagues announce to Lord Macartney no other than the foregoing alteration in their plan.

It is discouraging to attempt any sort of observation on plans thus shifting their principle, whilst their merits are under examination. The judgment formed on the scheme of April has nothing to do with the project of May. Your committee has not suppressed any part of the reflections which occurred to them on the former of these plans; first, because the company knows of no other by any regular transmissions; secondly, because it is by no means certain, that, before the expiration of June the governour-general and council may not revert to the plan of April. They speak of that plan as likely to be (or make a part of one that shall be) *permanent*. Many reasons are alleged by its authors in its favour, grounded on the state of their affairs; none whatever are assigned for the alteration. It is, indeed, morally certain, that persons who had money to remit must have made the same calculation, which has been made by the directions of your committee, and the result must have been equally clear to them; which is, that instead of realizing two shillings and two pence the rupee on their subscription, as they proposed, they could never hope to see more than one shilling and nine pence. This calculation probably shook the main pillar of the project of April. But on the other hand, as the subscibers to the second scheme can have no certain assurance that the company will accept bills so far exceeding their allow-

ance in this particular, the necessity of remitting their fortunes may beat them back to their old ground. The Danish company was the only means of remitting which remained. Attempts have been made with success, to revive a Portuguese trade for that purpose. It is by no means clear, whether Mr. Hastings and his colleagues will adhere to either of the foregoing plans; or, indeed, whether any investment at all to that amount can be realized; because nothing but the convenience of remitting the gains of British subjects to London can support any of these projects.

The situation of the company under this perpetual variation in the system of their investment is truly perplexing. The manner in which they arrive at any knowledge of it, is no less so. The letter to Lord Macartney, by which the variation is discovered, was not intended for transmission to the directors. It was merely for the information of those who were admitted to a share of the subscription at Madras. When Mr. Hastings sent this information to those subscribers, he might well enough have presumed an event to happen, which did happen; that is, that a vessel might be despatched from Madras to Europe; and, indeed, by that and by every devisable means, he ought not only to have apprised the directors of this most material change in the plan of the investment, but to have entered fully into the grounds and reasons of his making it.

It appears to your committee, that the ships which brought to England the plan of the 8th of April, did not sail from Bengal until the 1st of May. If the change had been in contemplation for any time before the 13th of April, two days would have sufficed to send an account of it, and it might have arrived along with the plan which it affected. If, therefore, such a change was in agitation before the sailing of the ships, and yet was concealed when it might have been communicated, the concealment is censurable. It is not improbable that some change of the kind was made or meditated before the sailing of the ships for Europe; for it is hardly to be imagined, that reasons wholly unlooked for should appear for setting aside a plan, concerning the success of which, the council-general seemed so very confident; that a new one should be proposed; that its merits should be discussed among the moneyed men; that it should be adopted in council, and officially ready for transmission to Madras in twelve or thirteen days. In this perplexity of plan and of transmission, the court of directors may have made an arrangement of their affairs on the groundwork of the first scheme, which was officially and authentically conveyed to them. The fundamental alteration of that plan in India might require another of a very different kind in England; which the arrangements taken in consequence of the first might make it difficult, if not impossible, to execute. What must add to the confusion is, that the alteration has not the regular and official authority of the original plan, and may be presumed to indicate with certainty nothing more than that the business is *again* afloat, and that no scheme is finally determined on. Thus the company is left without any fixed data upon which they can make a rational disposition of their affairs.

The fact is, that the principles and œconomy of the company's trade have been so completely corrupted by turning it into a vehicle for tribute, that whenever circumstances require it to be replaced again upon a bottom truly commercial, hardly anything but confusion and disasters can be expected as the first results. Even before the acquisition of the territorial revenues, the system of the company's commerce was not formed upon principles the most favourable to its prosperity; for whilst on the one hand, that body received encouragement by royal and parliamentary charters, was invested with several ample privileges, and even with a delegation of the most essential prerogatives of the crown; on the other, its commerce was watched with an invidious jealousy, as a species of dealing dangerous to the national interests. In that light, with regard to the company's imports, there was a total prohibition from domestick use of the most considerable articles of their trade; that is, of all silk stuffs, and stained and painted cottons. The British market was in a great measure interdicted to the British trader. Whatever advantages might arise to the general trading interests of the kingdom by this restraint, its East-India interest was undoubtedly injured by it. The company is, also, and has been from a very early period, obliged to furnish the ordnance with a quantity of saltpetre at a certain price, without any reference to the standard of the markets, either of purchase or of sale. With regard to their export, they were put also under difficulties upon very mistaken notions; for they were obliged to export annually a certain proportion of British manufactures, even though they should find for them in India none, or but an unprofitable want. This compulsory export might

operate, and in some instances has operated, in a manner more grievous than a tax to the amount of the loss in trade. For the payment of a tax is in general divided in unequal portions between the vender and consumer, the largest part falling upon the latter. In the case before us, the tax may be as a dead charge on the trading capital of the company.

The spirit of all these regulations naturally tended to weaken, in the very original constitution of the company, the main spring of the commercial machine, the *principles of profit and loss*. And the mischief arising from an inattention to those principles has constantly increased with the increase of its power. For when the company had acquired the rights of sovereignity in India, it was not to be expected that the attention to profit and loss would have increased. The idea of remitting tribute in goods naturally produced an indifference to their price and quality; the goods themselves appearing little else than a sort of package to the tribute. Merchandise, taken as tribute, or bought in lieu of it, can never long be of a kind, or of a price fitted to a market which stands solely on its commercial reputation. The indifference of the mercantile sovereign to his trading advantages naturally relaxed the diligence of his subordinate factor-magistrates, through all their gradations, and in all their functions; it gave rise, at least so far as the principal was concerned, to much neglect of price and of goodness in their purchases. If ever they showed any extraordinary degrees of accuracy and selection, it would naturally be in favour of that interest to which they could not be indifferent. The company might suffer above, the natives might suffer below; the intermediate party must profit to the prejudice of both.

Your committee are of opinion that the company is now arrived at that point when the investment, from surplus revenue, or from the spoil of war ceasing, it is become much more necessary to fix its commerce upon a commercial basis. And this opinion led your committee to a detailed review of all the articles of the Indian traffick upon which the profit and loss was steady; and we have chosen a period of four years, during the continuance of the revenue investment, and prior to any borrowing, or any extraordinary drawing of bills, in order to find out how far the trade, under circumstances when it will be necessary to carry it on by borrowing, or by bills, or by exportation of bullion, can be sustained in the former course, so as to secure the capital, and to afford a reasonable dividend. And your committee find that in the first four years the investment from Bengal amounted to 4,176,525*l.*; upon 2,260,277*l.* there was gain of 186,377*l.* and upon 1,916,-248*l.* a loss of 705,566*l.*; so that the excess of loss above gain, upon the whole of the foregoing capital, was in the four years no less than 519,229*l.*

If the trade were confined to Bengal, and the company were to trade on those terms upon a capital borrowed at eight per cent. Indian interest, their revenues in that province would be soon so overpowered with debt, that those revenues, instead of supporting the trade would be totally destoyed by it. If, on the other hand, the company traded upon bills, with every advantage, far from being in a condition to divide the smallest per-centage, their bankruptcy here would be inevitable.

Your committee then turned to the trade of the other factories and presidencies, and they constantly found, that as the power and dominion of the company was less, their profit on the goods was greater. The investments of Madras, Bombay, and Bencoolen, have in the foregoing four years, upon a capital of 1,151,176*l.* had a gain upon the whole of 329,-622*l.* The greatest of all is that of Bencoolen, which, on a capital of 76,571*l.* produced a profit of 107,760*l.* This however is but a small branch of the company's trade. The trade to China, on a capital of 1,717,463*l.* produced an excess of gain, amounting to 874,-096*l.* which is about fifty per cent. But such was the evil influence of the Bengal investment, that not only the profits of the Chinese trade, but of all the lucrative branches taken together, were so sunk and ingulfed in it, that the whole profit on a capital of 7,045,-164*l.* reached to no more than 684,489*l.*; that is, to 189,607*l.* less than the profit on the Chinese trade alone; less than the total profits on the gainful trades taken together, 520,727*l.*

It is very remarkable that in the year 1778, when the Bengal investment stood at the highest, that is, so high as 1,223,316*l.* though the Chinese trade produced an excess of gain in that year of 209,243*l.* and that no loss of moment could be added to that of Bengal (except about 45,000*l.* on the Bombay trade) the whole profit of a capital of 2,040,787*l.* amounted only to the sum of 9,480*l.*

The circumstances of the time have rendered it necessary to call up a vigorous attention to this state of the trade of the company between Europe and India.

INTERNAL TRADE OF BENGAL.

The internal trade of Bengal has next attracted the inquiries of your committee.

The great and valuable articles of the company's investment, drawn from the articles of internal trade, are raw silk, and various descriptions of piece goods made of silk and cotton. These articles are not under any formal monopoly: nor does the company at present exercise a *declared* right of pre-emption with regard to them. But it does not appear that the trade in these particulars is or can be perfectly free; not so much on account of any direct measures taken to prevent it, as from the circumstances of the country, and the manner of carrying on business there. For the present trade, even in these articles, is built from the ruins of old monopolies and pre-emptions, and necessarily partakes of the nature of its materials.

In order to show in what manner manufactures and trade so constituted contribute to the prosperity of the natives, your committee conceives it proper to take, in this place, a short general view of the progress of the English policy with relation to the commerce of Bengal, and the several stages and gradations by which it has been brought into its actual state. The modes of abuse, and the means by which commerce has suffered, will be considered in greater detail under the distinct heads of those objects which have chiefly suffered by them.

During the time of the Mogul government, the princes of that race, who omitted nothing for the encouragement of commerce in their dominions, bestowed very large privileges and immunities on the English East-India company, exempting them from several duties, to which their natural-born subjects were liable. The company's dustuck, or passport, secured to them this exemption at all the custom-houses and toll-bars of the country. The company not being able, or not choosing to make use of their privilege to the full extent to which it might be carried, indulged their servants with a qualified use of their passport, under which, and in the name of the company, they carried on a private trade, either by themselves, or in society with natives; and thus found a compensation for the scanty allowances made to them by their masters in England. As the country government was at that time in the fulness of its strength, and that this immunity existed by a double connivance, it was naturally kept within tolerable limits.

But by the revolution in 1757, the company's servants obtained a mighty ascendant over the native princes of Bengal, who owed their elevation to the British arms. The company, which was new to that kind of power, and not yet thoroughly apprized of its real character and situation, considered itself still as a trader in the territories of a foreign potentate, in the prosperity of whose country it had neither interest nor duty. The servants, with the same ideas, followed their fortune in the channels in which it had hitherto ran, only enlarging them with the enlargement of their power. For their first ideas of profit were not official; nor were their oppressions those of ordinary despotism. The first instruments of their power were formed out of evasions of their antient subjection. The passport of the company in the hands of its servants was no longer under any restraint; and in a very short time their immunity began to cover all the merchandise of the country. Cossim Ali Khân, the second of the nabobs, whom they had set up, was but ill disposed to the instruments of his greatness. He bore the yoke of this imperious commerce with the utmost impatience: he saw his subjects excluded as aliens from their own trade, and the revenues of the prince overwhelmed in the ruin of the commerce of his dominions. Finding his reiterated remonstrances on the extent and abuse of the passport ineffectual, he had recourse to an unexpected expedient, which was to declare his resolution at once to annul all the duties on trade, setting it equally free to subjects and to foreigners.

Never was a method of defeating the oppressions of monopoly more forcible, more simple, or more equitable: no sort of plausible objection could be made; and it was in vain to think of evading it. It was therefore met with the confidence of avowed and determined injustice. The presidency of Calcutta openly denied to the prince the power of protecting the trade of his subjects, by the remission of his own duties. It was evident that his authority drew to its period; many reasons and motives concurred, and his fall was hastened by the odium of the oppressions which he exercised voluntarily, as well as of those to which he was obliged to submit.

When this example was made, Jaffier Ali Khân, who had been deposed to make room for the last actor, was brought from penury and exile to a station, the terms of which he could not misunderstand. During his life, and in the time of his children, who succeeded to him, parts of the territorial revenue were assigned to the company; and the whole, un-

der the name of the residency at the nabob's court, was brought, directly or indirectly, under the controul of British subjects. The company's servants, armed with authorities delegated from the nominal government, or attended with what was a stronger guard, the fame of their own power, appeared as magistrates in the markets, in which they dealt as traders. It was impossible for the natives in general to distinguish, in the proceedings of the same persons, what was transacted on the company's account, from what was done on their own; and it will ever be so difficult to draw this line of distinction, that, as long as the company does, directly or indirectly, aim at any advantage to itself in the purchase of any commodity whatever, so long will it be impracticable to prevent the servants availing themselves of the same privileges.

The servants, therefore, for themselves, or for their employers, monopolized every article of trade, foreign and domestick; not only the raw merchantable commodities, but the manufactures; and not only these, but the necessaries of life, or what, in these countries, habit has confounded with them; not only silk, cotton, piece goods, opium, salt-petre, but not unfrequently salt, tobacco, betel nut, and the grain of most ordinary consumption. In the name of the country government they laid on or took off, and at their pleasure heightened or lowered, all duties upon goods: the whole trade of the country was either destroyed or in shackles. The acquisition of the Duanné, in 1765, bringing the English into the immediate government of the country, in its most essential branches, extended and confirmed all the former means of monopoly.

In the progress of these ruinous measures, through all their details, innumerable grievances were suffered by the native inhabitants, which were represented in the strongest, that is, their true colours, in England. Whilst the far greater part of the British in India were in eager pursuit of the forced and exorbitant gains of a trade carried on by power, contests naturally arose among the competitors; those, who were overpowered by their rivals, became loud in their complaints to the court of directors, and were very capable, from experience, of pointing out every mode of abuse.

The court of directors, on their part, began, though very slowly, to perceive, that the country, which was ravaged by this sort of commerce, was their own. These complaints obliged the directors to a strict examination into the real sources of the mismanagement of their concerns in India, and to lay the foundations of a system of restraint on the exorbitancies of their servants. Accordingly, so early as the year 1765, they confine them to a trade only in articles of export and import; and strictly prohibit them from all dealing in objects of internal consumption. About the the same time, the presidency of Calcutta found it necessary to put a restraint upon themselves, or at least to make a show of a disposition (with which the directors appear much satisfied) to keep their own enormous power within bounds.

But, whatever might have been the intentions, either of the directors or the presidency, both found themselves unequal to the execution of a plan, which went to defeat the projects of almost all the English in India; possibly comprehending some who were makers of the regulations. For as the complaint of the country, or as their own interest predominated with the presidency, they were always shifting from one course to the other; so that it became as impossible for the natives to know upon what principle to ground any commercial speculation, from the uncertainty of the law, under which they acted, as it was when they were oppressed by power, without any colour of law at all; for the directors, in a few months after they had given these tokens of approbation to the above regulations in favour of the country trade, tell the presidency, "It is with concern we see, in *every page* of your consultations, *restrictions, limitations, prohibitions, affecting various articles of trade.*"

On their side, the presidency freely confess that these monopolies of inland trade "were the foundation of all the bloodsheds, massacres, and confusions, which have happened of late in Bengal."

Pressed in this urgent manner, the directors came more specifically to the grievance, and at once annul all the passports with which their servants traded without duties, holding out means of compensation, of which it does not appear that any advantage was taken. In order that the duties which existed, should no longer continue to burthen the trade either of the servants or natives, they ordered that a number of oppressive toll-bars should be taken away, and the whole number reduced to nine of the most considerable.

When Lord Clive was sent to Bengal to effect a reformation of the many abuses which prevailed there, he considered monopoly to be so inveterate and deeply rooted, and the just rewards of the company's servants to be so

complicated with that injustice to the country, that the latter could not easily be removed without taking away the former. He adopted, therefore, a plan for dealing in certain articles, which, as he conceived, rather ought to be called "a regulated and restricted trade" than a formal monopoly. By this plan he intended that the profits should be distributed in an orderly and proportioned manner for the reward of services, and not seized by each individual according to the measure of his boldness, dexterity, or influence.

But this scheme of monopoly did not subsist long, at least in that mode, and for those purposes: three of the grand monopolies, those of opium, salt, and salt-petre, were successively by the company taken into their own hands. The produce of the sale of the two former articles was applied to the purchase of goods for their investment; the latter was exported in kind for their sales in Europe. The senior servants had a certain share of emolument allotted to them from a commission on the revenues. The junior servants were rigorously confined to salaries, on which they were unable to subsist according to their rank. They were strictly ordered to abstain from all dealing in objects of internal commerce. Those of export and import were left open to young men without mercantile experience, and wholly unprovided with mercantile capitals; but abundantly furnished with large trusts of the publick money, and with all the powers of an absolute government. In this situation, a religious abstinence from all illicit gain was prescribed to men at nine thousand miles distance from the seat of the supreme authority.

Your committee is far from meaning to justify, or even to excuse the oppressions and cruelties used by many, in supplying the deficiencies of their regular allowances by all manner of extortion. But many smaller irregularities may admit some alleviation from thence. Nor does your committee mean to express any desire of reverting to the mode (contrived in India, but condemned by the directors) of rewarding the servants of an higher class by a regulated monopoly. Their object is to point out the deficiencies in the system, by which restrictions were laid that could have little or no effect, whilst want and power were suffered to be united.

But the proceedings of the directors at that time, though not altogether judicious, were in many respects honourable to them, and favourable, in the intention at least, to the country they governed. For finding their trading capital employed against themselves and against the natives, and struggling in vain against abuses, which were inseparably connected with the system of their own preference in trade, in the year 1773 they came to the manly resolution of setting an example to their servants, and gave up all use of power and influence in the two grand articles of their investment, silk and piece goods. They directed that the articles should be bought at an equal and publick market from the native merchants: and this order they directed to be published in all the principal marts of Bengal.

Your committee are clearly of opinion, that no better method of purchase could be adopted. But it soon appeared, that in deep-rooted and inveterate abuses the wisest principles of reform may be made to operate so destructively, as wholly to discredit the design, and to dishearten all persons from the prosecution of it. The presidency, who seemed to yield with the utmost reluctance to the execution of these orders, soon made the directors feel their evil influence upon their own investment. For they found the silk and cotton cloths rose twenty-five per cent. above their former price, and a further rise of forty per cent. was announced to them.

SILK.

WHAT happened with regard to raw silk is still more remarkable, and tends still more clearly to illustrate the effects of commercial servitude during its unchecked existence, and the consequences which may be made to arise from its sudden reformation. On laying open the trade, the article of raw silk was instantly enhanced to the company full eighty per cent. The contract for that commodity, wound off in the Bengal method, which used to sell for less than six rupees, or thirteen shillings for two pounds weight, arose to nine rupees, or near twenty shillings, and the filature silk was very soon after contracted for at fourteen.

The presidency accounted for this rise, by observing, that the price had before been *arbitrary*, and that the persons who purveyed for the company, paid no more than "what was *judged* sufficient for the maintenance of the first providers." This fact explains, more fully than the most laboured description can do, the dreadful effects of the monopoly on the cultivators. They had the *sufficiency* of their maintenance measured out by the judgment of

those who were to profit by their labour; and this measure was not a great deal more, by their own account, than about two-thirds of the value of that labour. In all probability it was much less; as these dealings rarely passed through intermediate hands without leaving a considerable profit. These oppressions, it will be observed, were not confined to the company's share, which however covered a great part of the trade; but as this was an article permitted to the servants, the same power of arbitrary valuation must have been extended over the whole, as the market must be equalized, if any authority at all is extended over it by those who have an interest in the restraint. The price was not only raised, but in the manufactures the quality was debased nearly in an equal proportion. The directors conceived, with great reason, that this rise of price and debasement of quality arose not from the effect of a free market, but from the servants having taken that opportunity of throwing upon the market of their masters the refuse goods of their own private trade, at such exorbitant prices as by mutual connivance they were pleased to settle. The mischief was greatly aggravated by its happening at a time when the company were obliged to pay for their goods with bonds bearing an high interest.

The perplexed system of the company's concerns, composed of so many opposite movements and contradictory principles, appears no where in a more clear light. If trade continued under restraint, their territorial revenues must suffer by checking the general prosperity of the country; if they set it free, means were taken to raise the price and debase the quality of the goods; and this again fell upon the revenues out of which the payment for the goods was to arise. The observations of the company on that occasion are just and sagacious, and they will not permit the least doubt concerning the policy of these unnatural trades. "The amount of our Bengal cargoes from 1769 to 1773, is 2,901,194 pounds sterling, and if the average increase of price be estimated at twenty-five per cent. only, the amount of such increase is 725,298 pounds sterling." "The above circumstances are exceedingly alarming to us; but what must be our concern to find by the advices of our president and council of 1773, that a further advance of forty per cent. on Bengal goods was expected and allowed to be the consequence of advertisements then published, authorizing a free trade in the service?" "We find the Duanné revenues are in general farmed for five years, and the aggregate increase estimated at only 183,170 pounds sterling (on a supposition that such increase will be realized) yet if the annual investment be sixty lacks, and the advance of price thirty per cent. only, such advance will *exceed the increase of the revenue by no less than 829,330 pounds sterling*."

The indignation which the directors felt at being reduced to this distressing situation was expressed to their servants in very strong terms. They attributed the whole to their practices, and say, "We are far from being convinced that the competition which tends to raise the price of goods in Bengal is wholly between public European companies, or between merchants in general, who export to foreign markets: we are rather of opinion that the sources of this grand evil have been the extraordinary privileges granted to individuals in our service, or under our license, to trade without restriction throughout the provinces of Bengal; and the encouragement they have had to extend their trade to the uttermost, even in such goods as were proper for our investment, by observing the success of those persons who have from time to time *found means to dispose of their merchandise to our governour and council*, though of so bad a quality as to be sold here with great difficulty, after having been frequently refused, and put up at the next sale without price, to the very great discredit and disadvantage of the company." In all probability the directors were not mistaken; for, upon an inquiry instituted soon after, it was found that Cantû Babû, the Banian, or native steward and manager to Mr. Hastings (late president) held two of these contracts in his own name and that of his son, for considerably more than one hundred and fifty thousand pounds. This discovery brought on a prohibition from the court of directors of that suspicious and dangerous dealing in the stewards of persons in high office. The same man held likewise farms to the amount of one hundred and forty thousand pounds a year of the landed revenue, with the same suspicious appearance, contrary to the regulations made under Mr. Hastings's own administration.

In the mortifying dilemma to which the directors found themselves reduced, whereby the ruin of the revenues, either by the freedom or the restraint of trade, was evident, they considered the first as most rapid and urgent; and therefore once more revert to the system of their antient pre-emption, and destroy that freedom, which they had so lately

and with so much solemnity proclaimed, and that before it could be abused or even enjoyed. They declare, that "unwilling as we are to return to the *former coercive system* of providing an investment, or to abridge that freedom of commerce which has been so lately established in Bengal, yet, at the same time, finding it our indispensable duty to strike at the *root* of an evil which has been so severely felt by the company, and which can no longer be supported, we hereby direct that all persons whatever in the company's service *or under our protection*, be absolutely prohibited, by publick advertisement, from trading in any of those articles which compose our investment, directly or indirectly, except on account of and for the East-India company, until their investment is completed."

As soon as this order was received in Bengal, it was construed, as indeed the words seemed directly to warrant, to exclude all natives, as well as servants, from the trade, until the company was supplied. The company's pre-emption was now authoritatively re-established, and some feeble and ostensible regulations were made to relieve the weavers who might suffer by it. The directors imagined that the re-establishment of their coercive system would remove the evil, which fraud and artifice had grafted upon one more rational and liberal. But they were mistaken; for it only varied, if it did so much as vary, the abuse. The servants might as essentially injure their interest by a direct exercise of their power, as by pretexts drawn from the freedom of the natives; but with this fatal difference, that the frauds upon the company must be of shorter duration under a scheme of freedom. That state admitted, and indeed led to means of discovery and correction, whereas the system of coercion was likely to be permanent. It carried force further than served the purposes of those who authorized it; it tended to cover all frauds with obscurity, and to bury all complaint in despair. The next year therefore, that is, in the year 1776, the company, who complained that their orders had been extended beyond their intentions, made a third revolution in the trade of Bengal. It was set free again, so far, at least, as regarded the native merchants; but in so imperfect a manner, as evidently to leave the roots of old abuses in the ground. The supreme court of judicature about this time (1776) also fulminated a charge against monopolies, without any exception of those authorized by the company. But it does not appear that any thing very material was done in consequence of it.

The trade became nominally free; but the course of business established in consequence of coercive monopoly was not easily altered. In order to render more distinct the principles which led to the establishment of a course and habit of business so very difficult to change as long those principles exist, your committee think it will not be useless here to enter into the history of the regulations made in the first and favourite matter of the company's investment, the trade in *raw silk*, from the commencement of these regulations to the company's perhaps finally abandoning all share in the trade, which was their object.

RAW SILK.

The trade in *raw silk* was at all times more popular in England than really advantageous to the company. In addition to the old jealousy which prevailed between the company and the manufactory interest of England, they came to labour under no small odium on account of the distresses of India. The publick in England perceived, and felt with a proper sympathy, the sufferings of the eastern provinces in all cases in which they might be attributed to the abuses of power exercised under the company's authority. But they were not equally sensible to the evils which arose from a system of sacrificing the being of that country to the advantage of this. They entered very readily into the former, but with regard to the latter were slow and incredulous. It is not, therefore, extraordinary that the company should endeavour to ingratiate themselves with the publick by falling in with its prejudices. Thus they were led to increase the grievance, in order to allay the clamour. They continued still upon a larger scale, and still more systematically, that plan of conduct which was the principal though not the most blamed cause of the decay and depopulation of the country committed to their care.

With that view, and to furnish a cheap supply of materials to the manufactures of England, they formed a scheme which tended to destroy, or, at least, essentially to impair the whole manufacturing interest of Bengal. A policy of that sort could not fail of being highly popular, when the company submitted itself as an instrument for the improvement of British manufactures, instead of being their

most dangerous rival, as heretofore they had been always represented.

They accordingly notified to their presidency in Bengal, in their letter of the 17th of March, 1769, that "there was no branch of of their trade they more ardently wish to extend than that of raw silk." They disclaim, however, all desire of employing compulsory measures for that purpose, but recommended every mode of encouragement, and particularly by augmented wages, "*in order to induce manufacturers of wrought silk to quit that branch, and take to the winding of raw silk.*"

Having thus found means to draw hands from the manufacture, and confiding in the strength of a capital drawn from the publick revenues, they pursue their ideas from the purchase of their manufacture to the purchase of the material in its crudest state. "We recommend you to give an *increased price*, if necessary, *so as to take that trade out of the hands of other merchants and rival nations.*" A double bounty was thus given against the manufactures, both in the labour and in the materials.

It is very remarkable in what manner their vehement pursuit of this object led the directors to a speedy oblivion of those equitable correctives before interposed by them, in order to prevent the mischiefs which were apparent in the scheme if left to itself. They could venture so little to trust to the bounties given from the revenues, a trade which had a tendency to dry up their source, that, by the time they had proceeded to the 33d paragraph of their letter, they revert to those very compulsory means which they disclaimed but three paragraphs before. To prevent silk-winders from working in their private houses, where they might work for private traders, and to confine them to the company's factories, where they could only be employed for the company's benefit, they desire that the newly-acquired power of government should be effectually employed: "Should (say they) this practice, through *inattention*, have been suffered to take place again, it will be proper to put a stop to it, which may *now be more effectually done by an absolute prohibition, under severe penalties, by the authority of government.*"

This letter contains a perfect plan of policy, both of compulsion and encouragement, which must, in a very considerable degree, operate destructively to the manufactures of Bengal. Its effect must be (so far as it could operate without being eluded) to change the whole face of that industrious country, in order to render it a field for the produce of crude materials, subservient to the manufactures of Great Britain. The manufacturing hands were to be seduced from their looms by high wages, in order to prepare a raw produce for our market; they were to be locked up in the factories; and the commodity acquired by these operations was, in this immature state, carried out of the country, whilst its looms would be left without any material but the debased refuse of a market enhanced in its price, and scanted in its supply. By the increase of the price of this and other materials, manufactures, formerly the most flourishing, gradually disappeared under the protection of Great Britain, and were seen to rise again and flourish on the opposite coast of India, under the dominion of the Mahrattas.

These restraints and encouragements seem to have had the desired effect in Bengal, with regard to the diversion of labour from manufacture to materials. The trade of raw silk increased rapidly. But the company very soon felt, in the increase of price and debasement of quality of the wrought goods, a loss to themselves which fully counterbalanced all the advantages to be derived to the nation from the increase of the raw commodity. The necessary effect on the revenue was also foretold very early. For their servants in the principal silk factories declared, that the obstruction to the private trade in silk must in the end prove detrimental to the revenues, *and that the* investment clashes with the collection of these revenues. Whatsoever, by bounties or immunities, is encouraged out of a landed revenue, has certainly some tendency to lessen the nett amount of that revenue, and to forward produce which does not yield to the gross collection, rather than one that does.

The directors declare themselves unable to understand how this could be. Perhaps it was not so difficult. But, pressed as they were by the greatness of the payments, which they were compelled to make to government in England, the cries of Bengal could not be heard among the contending claims of the general court, of the treasury, and of Spital Fields. The speculation of the directors was originally fair and plausible (so far as the mere encouragement of the commodity extended.) Situated as they were, it was hardly in their power to stop themselves in the course they had begun. They were obliged to continue their resolution at any hazard, increasing the investment. "The state of our affairs (say they) requires the utmost exten-

sion of your investments. You are not to forbear sending even those sorts *which are attended with loss*, in case such should be necessary to supply an investment to as great an amount as *you can provide from your own resources;* and we have not the least doubt of your being thereby enabled to increase your consignments of this valuable branch of national commerce, even to the utmost of your wishes. But it is our positive order, that no part of such investment be provided with borrowed money, which is to be repaid by *draughts upon our treasury in London;* since the license, which has already been taken in this respect, has involved us in difficulties, which we yet know not how we shall surmount."

This very instructive paragraph lays open the true origin of the internal decay of Bengal. The trade and revenues of that country were (as the then system must necessarily have been) of secondary consideration at best. Present supplies were to be obtained, and present demands in England were to be avoided, at every expense to Bengal.

The spirit of increasing the investment from revenue at any rate, and the resolution of driving all competitors, Europeans or natives, out of the market, prevailed at a period still more early, and prevailed not only in Bengal, but seems, more or less, to have diffused itself through the whole sphere of the company's influence. In 1768 they gave to the presidency of Madras the following memorable instruction, strongly declaratory of their general system of policy.

"We shall depend upon your prudence (say they) to discourage foreigners; and being intent, as you have been repeatedly acquainted, on bringing home as great a part of the revenues as possible in your manufactures, the out-bidding them in those parts where they interfere with you, would certainly prove an effectual step for answering that end. We therefore recommend it to you to offer such increase of price as you shall deem may be consistently given; that, by beating them out of the market, the quantities by you to be provided may be proportionably enlarged; and if you take this method, it is to be so cautiously practised as not to enhance the prices in the places immediately under your controul. On this subject we must not omit the approval of your prohibiting the weavers of Cuddalore from making up any cloth of the same sortments that are provided for us; and if such prohibition is not now, it should by all means be, in future, *made general, and strictly maintained.*"

This system must have an immediate tendency towards disordering the trade of India, and must finally end in great detriment to the company itself. The effect of the restrictive system on the weaver is evident. The authority given to the servants to buy at an advanced price, did, of necessity, furnish means and excuses for every sort of fraud in their purchases. The instant the servant of a merchant is admitted, on his own judgment, to overbid the market, or to send goods to his master which shall sell at loss, there is no longer any standard upon which his unfair practices can be estimated, or any effectual means by which they can be restrained. The hope, entertained by the directors, of confining this destructive practice of giving an enhanced price to a particular spot must ever be found totally delusive. Speculations will be affected by this artificial price in every quarter in which markets can have the least communication with each other.

In a very few years the court of directors began to feel, even in Leadenhall-street, *the effects of trading to loss* upon the revenues, especially on those of Bengal.

In the letter of February, 1774, they observe, that "looking back to their accounts for the four preceding years, on several of the descriptions of silk, there has been an *increasing loss*, instead of any alteration for the better in the last year's productions. This (they say) threatens the destruction of that valuable branch of national commerce." And then they recommend *such regulations* (as if regulations in that state of things could be of any service) as may obtain "a profit in future, instead of so considerable a loss, which *we can no longer sustain.*"

Your committee thought it necessary to inquire into the losses which had actually been suffered by this unnatural forced trade; and find the loss, so early as the season of 1776, to be 77,650*l.*; that in the year 1777 it arose to 168,205*l.* This was so great that worse could hardly be apprehended; however, in the season of 1778, it amounted to 255,070*l.* In 1779 it was not so ruinously great, because the whole import was not so considerable; but it still stood enormously high; so high as 141,800*l.* In the whole four years it came to 642,725*l.* The observations of the directors were found to be fully verified. It is remarkable that the same article in the China trade produced a considerable and uniform

profit. On this circumstance little observation is necessary.

During the time of their struggles for enlarging this losing trade, which they considered as a national object, what in one point of view it was, and if it had not been grossly mismanaged, might have been in more than one; in this part it is impossible to refuse to the directors a very great share of merit; no degree of thought, of trouble, or of reasonable expense, was spared by them for the improvement of the commodity. They framed with diligence, and apparently on very good information, a code of manufacturing regulations for that purpose; and several persons were sent out, conversant in the Italian method of preparing and winding silk, aided by proper machines for facilitating and perfecting the work. This, under proper care, and in course of time, might have produced a real improvement to Bengal; but, in the first instance, it naturally drew the business from native management; and it caused a revulsion from the trade and manufactures of India, which led as naturally and inevitably to an European monopoly, in some hands or other, as any of the modes of coercion, which were or could be employed. The evil was present and inherent in the act. The means of letting the natives into the benefit of the improved system of produce was likely to be counteracted by the general ill conduct of the company's concerns abroad. For a while, at least it had an effect still worse; for the company purchasing the raw cocoon, or silk-pod, at a fixed rate, the first producer, who, whilst he could wind at his own house, employed his family in this labour, and could procure a reasonable livelihood by buying up the cocoons for the Italian filature, now incurred the enormous and ruinous loss of fifty per cent. This appears in a letter to the presidency, written by Mr. Boughton Rouse, now a member of your committee. But, for a long time, a considerable quantity of that in the old Bengal mode of winding was bought for the company from contractors, and it continues to be so bought to the present time; but the directors complain, in their letter of the 12th of May, 1780, that both species, particularly the latter, had risen so extravagantly, that it was become more than forty per cent. dearer than it had been fifteen years ago. In that state of price they condemn their servants, very justly, for entering into contracts for three years; and that for several kinds of silk, of very different goodness, upon averages unfairly formed, were the commodities, averaged at an equal price, differed from twenty to thirty per cent. on the sale. Soon after, they formed a regular scale of fixed prices, above which they found they could not trade without loss.

Whilst they were continuing these methods to secure themselves against future losses, the Bengal ships which arrived in that year, announced nothing but their continuance. Some articles by the high price, and others from their ill quality, were such "as never could answer to be sent to Europe at any price." The directors renew their prohibition of making fresh contracts, the present being generally to expire in the year 1781. But this trade whose fundamental policy might have admitted of a doubt as applied to Bengal, (whatever it might have been with regard to England,) was now itself expiring in the hands of the company, so that they were obliged to apply to government for power to enlarge their capacity of receiving bills upon Europe. The purchase by these bills they entirely divert from raw silk, and order to be laid out wholly in piece goods.

Thus, having found by experience, that this trade, whilst carried on upon the old principles, (of whatever advantage it might have been to the British manufacturers, or to the individuals who were concerned in it in Bengal,) had proved highly detrimental to the company, the directors resolved to expunge the raw silk from their investment. They gave up the whole to private traders, on condition of paying the freight, charges and duties; permitting them to send it to Europe in the company's ships upon their own account.

The whole of this history will serve to demonstrate that all attempts, which in their original system, or in their necessary consequences, tend to the distress of India, must, and in a very short time will, make themselves felt even by those in whose favour such attempts have been made. India may possibly, in some future time, bear and support itself under an extraction of measure or or of goods; but much care ought to be taken, that the influx of wealth shall be greater in quantity, and prior in time to the waste.

On abandoning the trade in silk to private hands, the directors issued some prohibitions to prevent monopoly; and they gave some directions about the improvement of the trade. The prohibitions were proper, and the directions prudent; but it is much to be feared, that whilst all the means, instruments, and powers remain, by which monopolies were made, and through which abuses formerly prevailed, all verbal orders will be fruitless.

This branch of trade, being so long princi-

pally managed by the company's servants for the company, and under its authority, cannot be easily taken out of their hands and pass to the natives, especially when it is to be carried on without the controul naturally inherent in all participation. It is not difficult to conceive how this forced preference of traffick in a raw commodity must have injured the manufactures, while it was the policy of the company to continue the trade on their own account. The servants, so far from deviating from their course, since they have taken the trade into their own management, have gone much further into it. The proportion of raw silk in the investment is to be augmented. The proportion of the whole cargoes for the year 1783, divided into sixteen parts, is ten of raw silk, and six only of manufactured goods. Such is the proportion of this losing article in the scheme for the investment of private fortunes.

In the reformed scheme of sending the investment on account of the company, to be paid in bills upon Europe, no mention is made of any change of these proportions. Indeed, some limits are attempted on the article of silk with regard to its price; and it is not improbable that the price; to the master and the servant will be very different; but they cannot make profitable purchases of this article, without strongly condemning all the former purchases of the board of trade.

CLOTHS, OR PIECE GOODS.

The general system above stated relative to the silk trade, must materially have affected the manufactures of Bengal, merely as it was a system of preference. It does by no means satisfactorily appear to your committee, that the freedom held out by the company's various orders has been ever fully enjoyed, or that the grievances of the native merchants and manufacturers have been redressed. For we find, on good authority, that at that very period at which it might be supposed that these orders had their operation, the oppressions were in full vigour. They appear to have fallen heaviest on the city of Dacca, formerly the great staple for the finest goods in India; a place once full of opulent merchants and dealers of all descriptions.

The city and district of Dacca, before the prevalence of the East-India company's influence and authority, manufactured annually to about three hundred thousand pounds value in cloths. In the year 1776, it had fallen to about two hundred thousand, or two-thirds of its former produce. Of this the company's demand amounted only to a fourth part, that is, about fifty thousand pounds yearly. This was at that time provided by agents for the company, under the inspection of their commercial servants. On pretence of securing an advantage for this fourth part of their masters, they exerted a most violent and arbitrary power over the whole. It was asserted that they fixed the company's mark to such goods as they thought fit (to all goods, as stated in one complaint) and disposed of them as they thought proper, excluding not only all the native dealers, but the Dutch company and private English merchants; that they made advances to the weavers, often beyond their known ability, to repay in goods within the year; and by this means, having got them in debt, held them in perpetual servitude. Their inability to keep accounts left them at the discretion of the agents of the supreme power to make their balances what they pleased, and they recovered them not by legal process, but by seizure of their goods and arbitrary imprisonment of their persons. One and the same dealer made the advance, valued the return, stated the account, passed the judgment, and executed the process.

Mr. Rouse, chief of the Dacca province, who struggled against those evils, says, that in the year 1773 there were no balances due, as the trade was then carried on by the native brokers. In less than three years these balances amounted to an immense sum; a sum lost to the company, but existing in full force for every purpose of oppression. In the amount of these balances, almost every weaver in the country bore a part, and consequently they were almost all caught in this snare. "They are, in general," (says Mr. Rouse, in a letter to General Clavering, delivered to your committee) "a timid, helpless people; many of them poor, to the utmost degree of wretchedness; incapable of keeping accounts; industrious as it were by instinct; unable to defend themselves if oppressed; and satisfied, if with continual labour they derive from the fair dealing and humanity of their employer, a moderate subsistence for their families."

Such were the people who stood accused by the company's agents, as *pretending* grievances, in order to be excused the payment of their balances. As to the commercial state of the province in general, Mr. Rouse represents it "to be for these two years a perpetu-

al scene of complaint and disputation:——the company's agents professing to pay higher rates to weavers, whilst the Leadenhall sales showed an heavy loss to the company. The weavers have even travelled in multitudes, to prefer their complaints at the presidency. The amount of the investment, comparatively small, with balances comparatively large, and, as I understand, generally contested by the weavers. The native merchants, called *delâls*, removed from their influence as prejudicial to the company's concerns; and European merchants complaining against undue influence of the company's commercial agents, in preventing the free purchase even of those goods which the company never takes."

The spirit of those agents will be fully comprehended from a state of the proceedings before Mr. Rouse and counsel, on the complaint of a Mr. Cree, an English free merchant at Dacca, who has been twice treated in the same injurious manner by the agents of Mr. Hurst, the commercial chief at that place. On his complaint to the board of the seizure of the goods and imprisonment of his agents, Mr. Hurst was called upon for an explanation. In return, he informed them that he had sent to one of the villages to inquire concerning the matter of fact alleged. The impartial person sent to make this inquiry, was the very man accused of the oppressions into which he was sent to examine. The answer of Mr. Hurst is in an high and determined tone. He does not deny that there are some instances of abuse of power. "But I ask," says he, "what *authority* can guard against the conduct of individuals; but that a *single* instance cannot be brought of a general depravity." Your committee have reason to believe these coercive measures to have been very general, though employed according to the degree of resistance opposed to the monopoly; for we find, at one time, the whole trade of the Dutch involved in the general servitude. But it appears very extraordinary that nothing but the actual proof of a *general* abuse could affect a practice, the very principle of which tends to make the coercion as general as the trade. Mr. Hurst's reflection concerning the abuse of *authority* is just; but in this case it is altogether inapplicable, because the complaint was not of the abuse, but of the use of authority in matters of trade, which ought to have been free. He throws out a variety of invidious reflections against the council, as if they wanted zeal for the company's service; his justification of his practices, and his declaration of his resolution to persevere in them, are firm and determined; asserting the right and policy of such restraints, and laying down a rule for his conduct at the factory, which, he says, will give no cause of just complaint to private traders. He adds, "I have no doubt but that they have hitherto provided investments, and it cannot turn to my interest to preclude them *now*, though I must ever think it my duty to combat the private views of individuals, who *set themselves up as competitors* under that very body, under whose license and indulgence only they can derive their privilege of trade; all I contend for is the *same influence* my employers have ever had." He ends by declining any reply to any of their future references of this nature.

The whole of this extraordinary letter is inserted in the appendix, No. 51; and Mr. Rouse's minute of observations upon it in appendix, No. 52, fully refuting the few pretexts alleged in that extraordinary performance, in support of the trade by influence and authority. Mr. Hollond, one of the counsel, joined Mr. Rouse in opinion, that a letter to the purport of that minute should be written, but they were overruled by Messrs. Purling, Hogarth, and Shakespeare, who passed a resolution to defer sending any reply to Mr. Hurst, and none was ever sent. Thus they gave countenance to the doctrine contained in that letter, as well as to the mischievous practices, which must inevitably arise from the exercise of such power. Some temporary and partial relief was given by the vigorous exertions of Mr. Rouse; but he shortly after removing from that government, all complaints were dropped.

It is remarkable, that during the long and warm contest between the company's agents and the dealers of Dacca, the board of trade seem to have taken a decided part against the latter. They allow some sort of justice in the complaints of the manufacturers with regard to low valuation, and other particulars: but they say, that "although (during the time of pre-emption) it appears that the weavers *were not allowed the same liberty of selling to individuals they before enjoyed*; our opinion on the whole is, that these complaints have originated upon the premeditated designs of the delâls [factors or brokers] *to thwart the new mode* of carrying on the company's business, *and to render themselves necessary*." They say in another place, that there is no ground for the dissatisfactions and difficulties of the weavers; "that they are owing to the delâls, *whose aim it is to be employed*."

This desire of being employed, and of rendering themselves necessary, in men, whose

only business it is to be employed in trade, is considered by the gentlemen of the board as no trivial offence; and accordingly they declare, "they have established it as *an invariable rule*, that *whatever deficiency* there might be in the Dacca investment, no purchase of the manufactures of *that quarter* shall be made for account of the company from private merchants. We have passed this resolution, which we deem of importance, from a persuasion that private merchants are often *induced* to make advances for Dacca goods not by the ordinary chance of sale, but merely from an expectation of disposing of them at an enhanced price to the company, against *whom a rivalship* is by this manner encouraged;" and they say, "that they intend to observe the *same* rule with respect to the investment of other of the factories, from whence similar complaints may come."

This positive rule is opposed to the positive directions of the company, to employ those obnoxious persons by preference. How far this violent use of authority, for the purpose of destroying rivalship, has succeeded in reducing the price of goods to the company, has been made manifest by the facts before stated in their place.

The recriminatory charges of the company's agents on the native merchants have made very little impression on your committee. We have nothing in favour of them but the assertion of a party powerful and interested. In such cases of mutual assertion and denial, your committee are led irresistibly to attach abuse to power, and to presume that suffering and hardship are more likely to attend on weakness, than that any combination of unprotected individuals is of force to prevail over influence, power, wealth, and authority. The complaints of the native merchants ought not to have been treated in any of those modes in which they were then treated. And when men are in the situation of complainants against unbounded power, their abandoning their suit is far from a full and clear proof of their complaints being groundless. It is not because redress has been rendered impracticable, that oppression does not exist; nor is the despair of sufferers any alleviation of their afflictions. A review of some of the most remarkable of the complaints made by the native merchants in that province is so essential for laying open the true spirit of the commercial administration, and the real condition of those concerned in trade there, that your committee, observing the records on this subject, and, at this period, full of them, could not think themselves justifiable in not stating them to the house.

Your committee have found many heavy charges of oppression against Mr. Barwell, whilst factory chief at Dacca; which oppressions are stated to have continued, and even to have been aggravated on complaint at Calcutta. These complaints appear in several memorials presented to the supreme council of Calcutta, of which Mr. Barwell was a member. They appeared yet fully and more strongly in a bill in chancery, filed in the supreme court, which was afterwards recorded before the governour-general and council, and transmitted to the court of directors.

Your committee, struck with the magnitude and importance of these charges, and finding that with regard to those before the council no regular investigation has ever taken place; and finding also that Mr. Barwell had asserted, in a minute of council, that he had given a full answer to the allegations in that bill; ordered a copy of the answer to be laid before your committee, that they might be enabled to state to the house how far it appeared to them to be full, how far the charges were denied as to the fact, or, where the facts might be admitted, what justification was set up. It appeared necessary, in order to determine on the true situation of the trade and the merchants of that great city and district.

The secretary to the court of directors has informed your committee, that no copy of the answer is to be found in the India house; nor has your committee been able to discover that any has been transmitted. On this failure, your committee ordered an application to be made to Mr. Barwell for a copy of his answer to the bill, and any other information with which he might be furnished with regard to that subject.

Mr. Barwell, after reciting the above letter, returned in answer what follows:

"Whether the records of the supreme court of judicature are lodged at the India House, I am ignorant, but on those records my answer is certainly to be found. At this distance of time, I am sorry I cannot, from memory, recover the circumstances of this affair; but this I know, that the bill did receive a complete answer, and the people the fullest satisfaction; nor is it necessary for me to remark on the state of parties at that time in Bengal, could party have brought forward any particle of that bill, supported by any verified fact. The principle that introduced it in the pro-

ceedings of the governour-general and council, would likewise have given the verification of that one circumstance, whatever that might have been. As I generally attend in my place in the house, I shall with pleasure answer any invitation of the gentlemen of the committee, to attend their investigations up stairs, with every information and light in my power to give them."

"*St. James'-square*, 15*th April*, 1783."

Your committee considered, that with regard to the matter charged in the several petitions to the board, no sort of specifick answer had been given at the time and place where they were made, and when and where the parties might be examined and confronted. It was considered also that the bill had been transmitted with other papers relating to the same matter, to the court of directors, with the knowledge and consent of Mr. Barwell; and that he states that his answer had been filed, and no proceedings had upon it for eighteen months. In that situation it was thought something extraordinary, that no care was taken by him to transmit so essential a paper as his answer, and that he had no copy of it in his hands.

Your committee, in this difficulty, thought themselves obliged to declare any verbal explanation from the person who is defendant in the suit, relative to matters, which on the part of the complainant appear upon record, and to leave the whole matter, as it is charged, to the judgment of the house, to determine how far it may be worthy of a further inquiry, or how far they may admit such allegations as your committee could not think themselves justified in receiving.

To this effect your committee ordered a letter to be written to Mr. Barwell, from whom they received the following answer:

"Sir,

"In consequence of your letter of the 17th, I must request the favour of you to inform the select committee, that I expect from their justice, on any matter of publick record, in which I am personally to be brought forward to the notice of the house, that they will, at the same time, point out to the house what part of such matter has been verified, and what parts have not, nor ever were attempted to be verified, though introduced in debate, and entered on the records of the governour-general and council of Bengal. I am anxious the information should be complete, or the house will not be competent to judge; and if it is complete, it will preclude all explanation as unnecessary.

"I am, sir,

"Your most obedient humble servant,

"RICHARD BARWELL."

"*St. James'-square*, 22*d April*, 1783."

"P. S. As I am this moment returned from the country, I had it not in my power to be earlier in acknowledging your letter of the 17th."

Your committee applied to Mr. Barwell, to communicate any papers which might tend to the elucidation of matters before them, in which he was concerned. This he has declined to do. Your committee conceive, that under the orders of the house, they are by no means obliged to make a complete state of all the evidence which may tend to criminate or exculpate every person whose transactions they may find it expedient to report; this, if not specially ordered, has not hitherto been, as they apprehend, the usage of any committee of this house. It is not for your committee, but for the discretion of the party, to call for, and for the wisdom of the house to institute such proceedings as may tend finally to condemn or acquit. The reports of your committee are no charges, though they may possibly furnish *matter* for charge; and no representations or observations of theirs can either clear or convict, on any proceeding which may hereafter be grounded on the facts which they produce to the house. Their opinions are not of a judicial nature. Your committee has taken abundant care that every important fact in their report should be attended with the authority for it, either in the course of their reflections or in the appendix; to report every thing upon every subject before them, which is to be found on the records of the company, would be to transcribe, and in the event to print almost the whole of those voluminous papers. The matter which appears before them, is, in summary manner, this:

The Dacca merchants begin by complaining, that in November, 1773, Mr. Richard Barwell, then chief of Dacca, had deprived them of their employment and means of subsistence; that he had extorted from them 44,224 Arcot rupees (4,731*l.*) by the terrour of his threats, by long imprisonment and cruel confinement in the stocks; that afterwards they were confined in a small room near the factory gate, under a guard of sepoys; that their food was stopped, and they remained starving a whole day; that they were not per-

mitted to take their food till next day at noon, and were again brought back to the same confinement, in which they were continued for six days, and were not set at liberty until they had given Mr. Barwell's banyan a certificate for forty thousand rupees; that in July, 1774, when Mr. Barwell had left Dacca, they went to Calcutta to seek justice; that Mr. Barwell confined them in his house at Calcutta, and sent them back under a guard of peons to Dacca; that in December, 1774, on the arrival of the gentlemen from Europe, they returned to Calcutta, and preferred their complaint to the supreme court of judicature.

The bill in chancery filed against Richard Barwell, John Shakespeare, and others, contains a minute specification of the various acts of personal cruelty, said to be practised by Mr. Barwell's orders, to extort money from these people. Among other acts of a similar nature, he is charged with having ordered the appraiser of the company's cloths, who was an old man, and who asserts that he had faithfully served the company above sixteen years, without the least censure on his conduct, to be severely flogged without reason.

In the *manner* of confining the delâls with ten of their servants, it is charged on him, that, "when he first ordered them to be put into the stocks, it was at a time when the weather was exceedingly bad, and the rain very heavy, without allowing them the least covering for their heads, or any part of their body, or any thing to raise them from the wet ground; in which condition they were continued for many hours, until the said Richard Barwell thought proper to remove them into a far worse state, if possible, as if studying to exercise the most cruel acts of barbarity on them, &c.—And that during their imprisonment they were frequently carried to and tortured in the stocks, in the middle of the day, when the scorching heat of the sun was insupportable, notwithstanding which they were denied the least covering." These men assert that they had served the company, without blame, for thirty years—a period commencing long before the power of the company in India.

It was no slight aggravation of this severity, that the objects were not young, nor of the lowest of the people, who might, by the vigour of their constitutions, or by the habits of hardship, be enabled to bear up against treatment so full of rigour. They were aged persons. They were men of a reputable profession.

The account given by these merchants of their first journey to Calcutta, in July, 1774, is circumstantial and remarkable. They say, "that on their arrival, *to their astonishment they soon learned that the governour, who had formerly been violently enraged against the said Richard Barwell, for different improprieties in his conduct, was now reconciled to him; and that, ever since there was a certainty of his majesty's appointments taking place in India, from being the most inveterate enemies, they were now become the most intimate friends; and that this account soon taught them to believe they were not any nearer justice from their journey to Calcutta, than they had been before at Dacca.*"

When this bill of complaint was, in 1776, laid before the council, to be transmitted to the court of directors, Mr. Barwell complained of the introduction of such a paper, and asserted *that he had answered to every particular of it on oath, about eighteen months, and that, during this long period, no attempt had been made to controvert, refute, or even to reply to it.*

He did not, however, think it proper to enter his answer on the records along with the bill of whose introduction he complained.

On the declarations made by Mr. Barwell in his minute (September, 1776,) your committee observe, that, considering him only as an individual, under prosecution in a court of justice, it might be sufficient for him to exhibit his defence in the court where he was accused; but that as a member of government, specifically charged before that very government with abusing the powers of his office in a very extraordinary manner, and for purposes (as they allege) highly corrupt and criminal, it appears to your committee hardly sufficient to say that he had answered elsewhere. The matter was to go before the court of directors, to whom the question of his conduct in that situation, a situation of the highest power and trust, was as much at least a question of state, as a matter of redress to be solely left to the discretion, capacity, or perseverance of individuals. Mr. Barwell might possibly be generous enough to take no advantage of his eminent situation; but these unfortunate people would rather look to his power than his disposition. In general, a man so circumstanced and so charged (though we do not know this to be the case with Mr. Barwell) might easily contrive, by legal advantages, to escape. The plaintiffs being at a great distance from the seat of government, and possibly affected by fear or fatigue, or seeing the impossibility of sustaining, with the ruins of fortunes never perhaps very opulent, a suit

against wealth, power, and influence, a compromise might even take place, in which circumstances might make the complainants gladly acquiesce. But the publick injury is not in the least repaired by the acquiescence of individuals, as it touched the honour of the very highest parts of government. In the opinion of your committee, some means ought to have been taken to bring the bill to a discussion on the merits; or, supposing that such decree could not be obtained, by reason of any failure of proceeding on the part of the plaintiffs, some process, official or juridical, ought to have been instituted against them, which might prove them guilty of slander and defamation, in as authentick a manner as they had made their charge before their council as well as the court.

By the determination of Mr. Hurst, and the resolutions of the board of trade, it is much to be apprehended that the native mercantile interest must be exceedingly reduced. The above-mentioned resolutions of the board of trade, if executed in their rigour, must almost inevitably accomplish its ruin. The subsequent transactions are covered with an obscurity which your committee have not been able to dispel. All which they can collect, but that by no means distinctly, is, that as those who trade for the company in the articles of investment, may also trade for themselves in the same articles, the old opportunities of confounding the capacities must remain, and all the oppressions by which this confusion has been attended. The company's investments, as the general letter from Bengal of the 20th of November, 1775, par. 28, states the matter, "are never at a stand; advances are made, and goods are received all the year round." Balances, the grand instrument of oppression, naturally accumulate on poor manufacturers, who are intrusted with money. Where there is not a vigorous rivalship not only tolerated but encouraged, it is impossible ever to redeem the manufacturers from the servitude induced by those unpaid balances.

No such rivalship does exist: the policy practised and avowed is directly against it. The reason assigned in the board of trade's letter of the 28th of November, 1778, for its making their advances early in the season, is, to prevent the foreign merchants and private traders *interfering* with the purchase of their (the company's) assortments. "They also refer to the means taken to prevent this interference, in their letter of the 26th January, 1779." It is impossible that the small part of the trade should not fall into the hands of those who, with the name and authority of the governing persons, have such extensive contracts in their hands. It appears in evidence, that natives can hardly trade to the best advantage (your committee doubt whether they can trade to any advantage at all) if not joined with or countenanced by British subjects. The directors were, in 1775, so strongly impressed with this notion, and conceived the native merchants to have been even then reduced to so low a state, that, notwithstanding the company's earnest desire of giving them a preference, they "doubt whether there are at at this time in Bengal native merchants possessed of property adequate to such undertaking, or of credit and responsibility sufficient to make it safe and prudent to trust them with such sums as might be necessary to enable them to fulfil their engagements with the company."

The effect, which so long continued a monopoly, followed by a pre-emption, and then by partial preferences supported by power, must necessarily have in weakening the mercantile capital, and disabling the merchants from all undertakings of magnitude, is but too visible. However, a witness of understanding and credit does not believe the capitals of the natives to be yet so reduced as to disable them from partaking in the trade, if they were otherwise able to put themselves on an equal footing with Europeans.

The difficulties at the outset will, however, be considerable. For the long continuance of abuse has, in some measure, conformed the whole trade of the country to its false principle. To make a sudden change, therefore, might destroy the few advantages which attend any trade, without securing those which must flow from one established upon sound mercantile principles, whenever such a trade can be established. The fact is, that the forcible direction which the trade of India has had towards Europe, to the neglect, or rather to the total abandoning of the Asiatick, has, of itself, tended to carry even the internal business from the native merchant. The revival of trade in the native hands is of absolute necessity; but your committee is of opinion, that it will rather be the effect of a regular progressive course of endeavours for that purpose, than of any one regulation, however wisely conceived.

After this examination into the condition of the trade and traders in the principal articles provided for the investment to Europe, your committee proceeded to take into considera-

tion those articles, the produce of which, after sale in Bengal, is to form a part of the fund for the purchase of other articles of investment, or to make a part of it in kind. These are, 1st, opium; 2dly, salt-petre; and 3dly, salt. These are all monopolized.

OPIUM.

The first of the internal authorized monopolies is that of opium. This drug, extracted from a species of the poppy, is of extensive consumption in most of the eastern markets. The best is produced in the province of Bahar: in Bengal it is of an inferiour sort, though of late it has been improved. This monopoly is to be traced to the very origin of our influence in Bengal. It is stated to have begun at Patna so early as the year 1761, but it received no considerable degree of strength or consistence until the year 1765; when the acquisition of the Dûanny opened a wide field for all projects of this nature. It was then adopted, and owned as a resource for persons in office; was managed chiefly by the civil servants of the Patna factory, and for their own benefit. The policy was justified on the usual principles on which monopolies are supported, and on some peculiar to the commodity, to the nature of the trade, and to the state of the country: the security against adulteration; the prevention of the excessive home consumption of a pernicious drug; the stopping an excessive competition, which, by an over-proportioned supply, would at length destroy the market abroad; the inability of the cultivator to proceed in an expensive and precarious culture, without a large advance of capital; and lastly, the incapacity of private merchants to supply that capital on the feeble security of wretched farmers.

These were the principal topicks on which the monopoly was supported. The last topick leads to a serious consideration on the state of the country; for in pushing it the gentleman argued, that in case such private merchants should advance the necessary capital, the lower cultivators "*would get money in abundance.*" Admitting this fact, it seems to be a part of the policy of this monopoly to prevent the cultivator from obtaining the natural fruits of his labour. Dealing with a private merchant he could not get *money in abundance*, unless his commodity could procure *an abundant* profit. Further reasons, relative to the peace and good order of the province were assigned for thus preventing the course of trade from the equitable distribution of the advantages of the produce, in which the first, the poorest, and the most laborious producer ought to have his first share. The cultivators (they add) would squander part of the money, and not be able to complete their engagements to the full; law-suits, and even battles, would ensue between the factors, contending for a deficient produce; and the farmers would discourage the culture of an object which brought so much disturbance into their districts. This competition, the operation of which they endeavour to prevent, is the natural corrective of the abuse, and the best remedy which could be applied to the disorder, even supposing its probable existence.

Upon whatever reasons or pretences the monopoly of opium was supported, the real motive appears to be the profit of those who were in hopes to be concerned in it. As these profits promised to be very considerable, at length it engaged the attention of the company; and after many discussions, and various plans of application, it was at length taken for their benefit, and the produce of the sale ordered to be employed in the purchase of goods for their investment.

In the year 1773 it had been taken out of the hands of the council of Patna, and leased to two of the natives; but for a year only. The contractors were to supply a certain quantity of opium at a given price. Half the value was to be paid to those contractors in advance, and the other half on the delivery.

The proceedings on this contract demonstrated the futility of all the principles on which the monopoly was founded. The council, as a part of their plan, were obliged, by heavy duties, and by a limitation of the right of emption of foreign opium to the contractors for the home produce, to check the influx of that commodity from the territories of the nabob of Oude, and the rajah of Benares. In these countries no monopoly existed; and yet there the commodity was of such a quality, and so abundant, as to bear the duty, and, even with the duty, in some degree to rival the monopolist even in his own market. There was no complaint in those countries of want of advances to cultivators, or of law-suits and tumults among the factors; nor was there any appearance of the multitude of other evils which had been so much dreaded from the vivacity of competition.

On the other hand, several of the precau-

tions inserted in this contract, and repeated in all the subsequent, strongly indicated the evils against which it is extremely difficult, if not impossible, to guard a monopoly of this nature, and in that country. For in the first contract entered into with the two natives, it was strictly forbidden to compel the tenants to the cultivation of this drug. Indeed, very shocking rumours had gone abroad, and they were aggravated by an opinion universally prevalent, that even in the season immediately following that dreadful famine, which swept off one-third of the inhabitants of Bengal, several of the poorer farmers were compelled to plough up the fields they had sown with grain, in order to plant them with poppies for the benefit of the engrossers of opium. This opinion grew into a strong presumption, when it was seen that in the next year the produce of opium (contrary to what might be naturally expected in a year following such a dearth) was nearly doubled. It is true, that when the quantity of land necessary for the production of the largest quantity of opium is considered, it is not just to attribute that famine to these practices, nor to any that were or could be used; yet, where such practices did prevail, they must have been very oppressive to individuals, extremely insulting to the feelings of the people, and must tend to bring great and deserved discredit on the British government. The English are a people who appear in India as a conquering nation; all dealing with them is, therefore, more or less a dealing with power. It is such when they trade on a private account; and it is much more so in any unauthorized monopoly, where the hand of government, which ought never to appear but to protect, is felt as the instrument in every act of oppression. Abuses must exist in a trade and a revenue so constituted; and there is no effectual cure for them but to entirely cut off their cause.

Things continued in this train until the great revolution in the company's government was wrought by the regulating act of the thirteenth of the king. In 1775 the new council-general appointed by the act, took this troublesome business again into consideration. General Clavering, Colonel Monson, and Mr. Francis, expressed such strong doubts of the propriety of this and of all other monopolies, that the directors, in their letter of the year following, left the council at liberty to throw the trade open, under a duty, if they should find it practicable. But General Clavering, who most severely censured monopoly in general, thought that this monopoly ought to be retained; but for a reason which shows his opinion of the wretched state of the country: for he supposed it impossible, with the power and influence which must attend British subjects in all their transactions, that monopoly could be avoided; and he preferred an avowed monopoly, which brought benefit to government, to a virtual engrossing, attended with profit only to individuals. But in this opinion he did not seem to be joined by Mr. Francis, who thought the suppression of this, and of all monopolies, to be practicable; and strongly recommended their abolition in a plan sent to the court of directors the year following.

The council, however, submitting to the opinion of this necessity, endeavoured to render that dubious engagement as beneficial as possible to the company. They began by putting up the contract to the highest bidder. The proposals were to be sealed. When the seals came to be opened, a very extraordinary scene appeared. Every step in this business develops more and more the effect of this junction of publick monopoly and private influence. Four English and eight natives were candidates for the contract; three of the English far out-bid the eight natives. They who consider that the natives, from their superiour dexterity, from their knowledge of the country and of business, and from their extreme industry, vigilance, and parsimony, are generally an over-match for Europeans, and indeed are, and must ultimately be employed by them in all transactions whatsoever, will find it very extraordinary that they did not, by the best offers, secure this dealing to themselves. It can be attributed to this cause, and this only, that they were conscious that without power and influence to subdue the cultivators of the land to their own purposes, they never could afford to engage on the lowest possible terms. Those whose power entered into the calculation of their profits, could offer, as they did offer, terms without comparison better: and therefore one of the English bidders, without partiality, secured the preference.

The contract to this first bidder, Mr. Griffiths was prolonged from year to year; and as during that time frequent complaints were made by him to the council board, on the principle that the years answered very differently, and that the business of one year ran into the other, reasons or excuses were furnished for giving the next contract to Mr. Mac-

kenzie for three years. This third contract was not put up to auction as the second had been, and as this ought to have been. The terms were indeed something better for the company, and the engagement was subject to qualifications, which, though they did not remove the objection to the breach of the company's orders, prevented the hands of the directors from being tied up. A proviso was inserted in the contract, that it should not be in any wise binding if the company, by orders from home, should alter the existing practice with regard to such dealing.

Whilst these things were going on, the evils which this monopoly was, in show and pretence, formed to prevent, still existed; and those which were naturally to be expected from a monopoly, existed too. Complaints were made of the bad quality of the opium; trials were made, and on those trials the opium was found faulty. An office of inspection at Calcutta, to ascertain its goodness, was established, and directions given to the provincial councils at the places of growth, to certify the quantity and quality of the commodity transmitted to the presidency.

In 1776, notwithstanding an engagement in the contract strictly prohibiting all compulsory culture of the poppy, information was given to a member of the council-general, that fields, green with rice, had been forcibly ploughed up to make way for that plant; and that this was done in the presence of several English gentlemen, who beheld the spectacle with a just and natural indignation. The board, struck with this representation, ordered the council of Patna to make an inquiry into the fact; but your committee can find no return whatsoever to this order. The complaints were not solely on the part of the cultivators against the contractor. The contractor for opium made loud complaints against the inferiour collectors of the landed revenue, stating their undue and vexatious exactions from the cultivators of opium; their throwing these unfortunate people into prison upon frivolous pretences, by which the tenants were ruined, and the contractor's advances lost. He stated, that if the contractor should interfere in favour of the cultivator, then a deficiency would be caused to appear in the landed revenues, and that deficiency would be charged on his interposition; he desired, therefore, that the cultivators of opium should be taken out of the general system of the landed revenue, and put under "his *protection*." Here the effect naturally to be expected from the clashing of inconsistent revenues appeared in its full light, as well as the state of the unfortunate peasants of Bengal, between such rival protectors, where the ploughman, flying from the tax-gatherer, is obliged to take refuge under the wings of the monopolist. No dispute arises among the English subjects, which does not divulge the misery of the natives; when the former are in harmony, all is well with the latter.

This monopoly, continuing and gathering strength through a succession of contractors, and being probably a most lucrative dealing, grew to be every day a greater object of competition. The council of Patna endeavoured to recover the contract, or at least the agency, by the most inviting terms; and in this eager state of mutual complaint and competition between private men and publick bodies, things continued until the arrival in Bengal of Mr. Stephen Sulivan, son of Mr. Sulivan, chairman of the East-India company, which soon put an end to all strife and emulation.

To form a clear judgment on the decisive step taken at this period, it is proper to keep in view the opinion of the court of directors concerning monopolies, against which they had uniformly declared in the most precise terms; they never submitted to them but as to a present necessity; it was therefore not necessary for them to express any particular approbation of a clause in Mr. Mackenzie's contract, which was made in favour of their own liberty. Every motive led them to preserve it. On the security of that clause, they could alone have suffered to pass over in silence (for they never approved) the grant of the contract which contained it, for three years. It must also be remembered, that they had, from the beginning, positively directed that the contract should be put up to publick auction; and this not having been done in Mr. Mackenzie's case, they severely reprimanded the governour-general and council, in their letter of the 23d of December, 1778.

The court of directors were perfectly right in showing themselves tenacious of this regulation; not so much to secure the best practicable revenue from their monopoly whilst it existed; but for a much more essential reason; that is, from the corrective, which this method administered to that monopoly itself; it prevented the British contractor from becoming doubly terrible to the natives, when they should see, that his contract was in effect *a grant*, and therefore indicated particular favour and private influence with the ruling members of an absolute government.

On the expiration of Mr. Mackenzie's

term, and but a few months after Mr. Sulivan's arrival, the governour-general (as if the contract was a matter of patronage, and not of dealing) pitched upon Mr. Sulivan, as the most proper person for the management of this critical concern. Mr. Sulivan, though a perfect stranger to Bengal, and to that sort, and all sorts of local commerce, made no difficulty of accepting it. The governour-general was so fearful that his true motives in this business should be mistaken, or that the smallest suspicion should arise of his attending to the company's orders, that, far from putting up the contract (which on account of its known profits had become the object of such pursuit) to *publick auction*, he did not wait for receiving so much as a *private proposal* from Mr. Sulivan. The secretary perceived, that in the rough draft of the contract, the old recital of a proposal to the board was inserted as a matter of course, but was contrary to the fact; he therefore remarked it to Mr. Hastings. Mr. Hastings, with great indifference, ordered that recital to be *omitted;* and the omission, with the remark that led to it, has, with the same easy indifference, been sent over to his masters.

The governour-general and council declare themselves apprehensive, that Mr. Sulivan might be a loser by his bargain upon account of troubles, which they supposed existed in the country, which was the object of it. This was the more indulgent, because the contractor was tolerably secured against all losses. He received a certain price for his commodity; but he was not obliged to pay any certain price to the cultivator, who, having no other market than his, must sell it to him at his own terms. He was to receive half the yearly payment by *advance;* and he was not obliged to advance to the cultivator more than what he thought expedient; but if this should not be enough, he might (if he pleased) draw the *whole* payment before the total delivery; such were the terms of the engagement with him. He is a contractor of a new species, who employs no capital whatsoever of his own, and has the market of compulsion at his entire command. But all these securities were not sufficient for the anxious attention of the supreme council to Mr. Sulivan's welfare; Mr. Hastings had before given him the contract without any proposal on his part; and to make their gift perfect, in a second instance they proceed a step beyond their former ill precedent, and they contract with Mr. Sulivan for *four* years.

Nothing appears to have been considered but the benefit of the contractor, and for this purpose the solicitude shown in all the provisions could not be exceded. One of the first things, that struck Mr. Hastings as a blemish on his gift, was the largeness of the penalty, which he had on former occasions settled as the sanction of the contract; this he now discovered to be so great as to be likely to frustrate its end by the impossibility of recovering so large a sum. How a large penalty can prevent the recovery of any, even the smallest part of it, is not quite apparent. In so vast a concern as that of opium, a fraud, which at first view may not appear of much importance, and which may be very difficult in the discovery, may easily counterbalance the reduced penalty in this contract, which was settled in favour of Mr. Sulivan, at about 20,000*l*.

Monopolies were (as the house has observed) only tolerated evils, and at best upon trial; a clause, therefore, was inserted in the contracts to Mackenzie, annulling the obligation, if the court of directors should resolve to abolish the monopoly; but at the request of Mr. Sulivan, the contract was, without difficulty, purged of this obnoxious clause. The term was made absolute; the monopoly rendered irrevocable, and the discretion of the directors wholly excluded. Mr. Hastings declared the reserved condition to be no longer necessary, "because the directors had approved the monopoly."

The chiefs and councils at the principal factories had been obliged to certify the quantity and quality of the opium before its transport to Calcutta; and their controul over the contractor had been assigned as the reason for not leaving to those factories the management of this monopoly. Now things were changed. Orders were sent to discontinue this measure of invidious precaution; and the opium was sent to Calcutta, without any thing done to ascertain its quality, or even its quantity.

An office of inspection had been also appointed to examine the quality of the opium, on its delivery at the capital settlement. In order to ease Mr. Sulivan from this troublesome formality, Mr. Hastings abolished the office; so that Mr. Sulivan was then totally freed from all examination or controul whatsoever, either first or last.

These extraordinary changes in favour of Mr. Sulivan were attended with losses to others, and seem to have excited much discontent. This discontent it was necessary in some manner to appease. The vendue master, who

was deprived of his accustomed dues on the publick sales of the opium by the private dealing, made a formal complaint to the board against this as well as other proceedings relative to the same business. He attributed the private sale to "*reasons of state;*" and this strong reflection, both on the board of trade and the council board, was passed over without observation. He was quieted by appointing him to the duty of these very inspectors, whose office had been just abolished as useless. The house will judge of the efficacy of the revival of this office, by the motives to it, and by Mr. Hastings giving that to *one* as *a compensation*, which had been executed by several as *a duty*. However, the orders for taking away the precautionary inspection at Patna, still remained in force.

Some benefits, which had been given to former contractors at the discretion of the board, were no longer held under that loose indulgence, but were secured to Mr. Sulivan by his contract. Other indulgences of a lesser nature, and to which no considerable objection could be made, were, on the application of a Mr. Benn, calling himself his attorney, granted.

Your committee examining Mr. Higginson, late a member of the board of trade, on that subject, were informed that this contract, very soon after the making was generally understood at Calcutta to have been sold to this Mr. Benn, but he could not particularise the sum for which it had been assigned; and that Mr. Benn, had afterwards sold it to a Mr. Young. By this transaction it appears clearly that the contract was given to Mr. Sulivan for no other purpose than to supply him with a sum of money; and the sale and resale seem strongly to indicate that the reduction of the penalty, and the other favourable conditions, were not granted for his ease in a business which he never was to execute, but to heighten the value of the object which he was to sell. Mr. Sulivan was at the time in Mr. Hastings's family, accompanied him in his progresses, and held the office of judge-advocate.

The monopoly given for these purposes, thus permanently secured, all power of reformation cut off, and almost every precaution against fraud and oppression removed, the supreme council found, or pretended to find, that the commodity for which they had just made such a contract, was not a saleable article; and, in consequence of this opinion or pretence, entered upon a daring speculation, hitherto unthought of, that of sending the commodity on the company's account, to the market of Canton. The council alleged that the Dutch being driven from Bengal, and the seas being infested with privateers, this commodity had none, or a very dull and depreciated demand.

Had this been true, Mr Hastings's conduct could admit of no excuse. He ought not to burden a falling market by long and heavy engagements. He ought studiously to have kept in his power the means of proportioning the supply to the demand. But his arguments, and those of the council on that occasion, do not deserve the smallest attention. Facts, to which there is no testimony but the assertion of those who produce them in apology for the ill consequences of their own irregular actions, cannot be admitted. Mr. Hastings and the Council had nothing at all to do with that business; the court of directors had wholly taken the management of opium out of his and their hands, and by a solemn adjudication fixed it in the board of trade. But after it had continued there some years, Mr. Hastings, a little before his grant of the monopoly to Mr. Sulivan, thought proper to reverse the decree of his masters, and by his own authority to recall it to the council. By this step he become responsible for all the consequences.

The board of trade appear indeed to merit reprehension for disposing of the opium by private contract, as by that means the unerring standard of the publick market cannot be applied to it; but they justified themselves by their success. And one of their members informed your committee that their last sale had been a good one; and, though he apprehended a fall in the next, it was not such as, in the opinion of your committee, could justify the council-general in having recourse to untried and hazardous speculations of commerce. It appears that there must have been a market, and one sufficiently lively. They assign as a reason of this assigned dullness of demand, that the Dutch had been expelled from Bengal, and could not carry the usual quantity to Batavia. But the Danes were not expelled from Bengal, and Portuguese ships traded there: neither of them were interdicted at Batavia, and the trade to the Eastern ports was free to them. The Danes actually applied for, and obtained an increase of the quantity to which their purchases had been limited; and, as they asked so they received this indulgence as a great favour. It does not appear that they were not very ready to supply the place of the Dutch. On the other hand, there is no doubt that the Dutch would most gladly receive an

article convenient, if not necessary, to the circulation of their commerce, from the Danes, or under any name; nor was it fit that the company should use an extreme strictness in any inquiry concerning the necessary disposal of one of their own staple commodities.

The supply of the Canton treasury with funds for the provision of the next year's China investment was the ground of this plan. But the council-general appear still to have the particular advantage of Mr. Sulivan in view; and, not satisfied with breaking so many of the company's orders for that purpose, to make the contract an object saleable to the greatest advantage, were obliged to transfer their personal partiality from Mr. Sulivan to the contract itself, and to hand it over to the assignees through all their successions. When the opium was delivered, the duties and emoluments of the contractor ended; but (it appears from Mr. Williamson's letter, 18th October, 1781, and it is not denied by the council-general) this new scheme *furnished them with a pretext of making him broker for China investment, with the profit of a new commission*—to what amount does not appear; but here their constant and vigilant observer, the vendue-master, met them again: they seemed to live in no small terrour of this gentleman. To satisfy him for the loss of his fee, to which he was entitled upon the publick sale, they gave *him* also a commission of one per cent. on the investment. Thus was this object loaded with a double commission; and every act of partiality to one person produced a chargeable compensation to some other for the injustice that such partiality produced. Nor was this the whole. The discontent and envy, excited by this act, went infinitely further than to those immediately affected, and something or other was to be found out, to satisfy as many as possible.

As soon as it was discovered that the council entertained a design of opening a trade on those principles, it immediately engaged the attention of such as had an interest in speculations of freight.

A memorial seems to have been drawn early, as it is dated on the 29th of March, though it was not the first publickly presented to the board. This memorial was presented on the 17th of September, 1781, by Mr. Wheeler, conformably (as he says) to the desire of the governour-general; and it contained a long elaborate dissertation on the trade to China; tending to prove the advantage of extending the sale of English manufactures and other goods to the north of that country, beyond the usual emporium of European nations. This ample, and not ill-reasoned theoretical performance (though not altogether new, either in speculation or attempt) ended by a practical proposition, very short indeed of the ideas opened in the preliminary discourse, but better adapted to the immediate effect. It was, that the company should undertake the sale of its own opium in China, and commit the management of the business to the memorialist, who offered to furnish them with a strong armed ship for that purpose. The offer was accepted; and the agreement made with him for the transport of two thousand chests.

A proposal by another person was made the July following the date of this project; it appears to have been early in the formal delivery at the board; this was for the export of one thousand four hundred and eighty chests. This too was accepted, but with new conditions and restrictions: for in so vast and new an undertaking, great difficulties occurred. In the first place, all importation of that commodity is rigorously forbidden by the laws of China. The impropriety of a political trader, who is lord over a great empire, being concerned in a contraband trade upon his own account, did not seem in the least to affect them; but they were struck with the obvious danger of subjecting their goods to seizure by the vastness of the prohibited import. To secure the larger adventure, they require of the China factory that colonel Watson's ship should enter the port of Canton as an *armed ship*, (they would not say a ship of war, though that must be meant,) that her cargo should not be reported; they also ordered that other measures should be adopted to secure this prohibited article from seizure.

If the cargo should get in safe, another danger was in view—the overloading the Chinese market by a supply beyond the demand: for it is obvious that contraband trade must exist by small quantities of goods poured in by intervals, and not by great importations at one time. To guard against this inconvenience, they divide their second, though the smaller adventure, into two parts; one of which was to go to the markets of the barbarous natives, which inhabit the coast of Malacca, where the chances of its being disposed of by robbery or sale were at least equal. If the opium should be disposed of there, the produce was to be invested in merchandise saleable in China, or in dollars, if to be had. The other part (about one half) was to go in kind directly to the port of Canton.

The dealing at this time seemed closed; but

the gentlemen who chartered the ships, always recollecting something, applied anew to the board furnished with cannon from the company's ordnance. Some was delivered to them; but the office of ordnance (so heavily expensive to the company) was not sufficient to spare a few iron guns for a merchant ship. Orders were given to cast a few cannon: and an application made to Madras, at a thousand miles distance, for the rest. Madras answers, that they cannot exactly comply with the requisition; but still the board at Bengal *hopes* better things from them than they promise, and flatter themselves that, with their assistance, they shall properly arm a ship of thirty-two guns.

Whilst these dispositions were making, the first proposer, perceiving advantages from the circuitous voyage of the second, which had escaped his observation, to make amends for his first omission, improved both on his own proposal and on that of the person who had improved on him. He therefore applied for leave to take two hundred and fifty chests on his own account, which he said could "be *readily disposed of* at the several places where it was necessary for the ship to touch for wood and water, or intelligence, during her intended voyage through *the eastern islands*." As a corrective to this extraordinary request, he assured the board that if he should meet with any unexpected delay at these markets, he would send their cargo to its destination, having secured a *swift-sailing* sloop for the *protection* of his ship; and this sloop he proposed in such a case to leave behind. Such an extraordinary eagerness to deal in opium lets in another view of the merits of the alleged dullness of the market, on which this trade was undertaken for the company's account.

The council, who had with great condescension and official facility, consented to every demand hitherto made, were not reluctant with regard to this last. The quantity of opium required by the freighters, and the permission of a trading voyage, were granted without hesitation. The cargo having become far more valuable by this small infusion of private interest, the armament, which was deemed sufficient to defend the company's large share of the adventure, was now discovered to be unequal to the protection of the whole. For the convoy of these two ships the council hire and arm another. How they were armed, or whether in fact they were properly armed at all, does not appear. It is true that the supreme council proposed that these ships should also convey supplies to Madras; but this was a secondary consideration—their primary object was the adventure of opium. To this they were permanently attached, and were obliged to attend to its final destination.

The difficulty of disposing of the opium, according to this project, being thus got over, a material preliminary difficulty still stood in the way of the whole scheme. The contractor or his assignees were to be paid. The company's treasure was wholly exhausted, and even its credit was exceedingly strained. The latter, however, was the better resource, and to this they resolved to apply. They therefore, at different times, opened two loans of one hundred thousand pounds each; the first was reserved for the company's servants, civil and military, to be distributed in shares according to their rank; the other was more general. The terms of both loans were, that the risk of the voyage was to be on account of the company. The payment was to be in bills (at a rate of exchange settled from the supercargoes at Canton) upon the same company. In whatever proportion the adventure should fail, either in the ships not safely arriving in China, or otherwise, in that proportion the subscribers were to content themselves with the company's bonds for their money, bearing eight per cent. interest. A share in this subscription was thought exceeding desirable; for Mr. Hastings writes from Benares, where he was employed in the manner already reported, and hereafter to be observed upon, requesting that the subscription should be left open to his officers, who were employed in the military operations against Cheyt Sing; and, accordingly, three majors, seven captains, twenty-three lieutenants, the surgeon belonging to the detachment, and two civil servants of high rank, who attended him, were admitted to subscribe.

Bills upon Europe without interest are always preferred to the company's bonds, even at the high interest allowed in India. They are indeed so greedily sought there, and (because they tend to bring an immediate and visible distress in Leadenhall-street) so much dreaded here, that by an act of parliament the company's servants are restricted from drawing bills beyond a certain amount upon the company in England.

In Bengal they have been restrained to about one hundred and eighty thousand pounds annually. The legislature, influenced more strongly with the same apprehensions, has restrained the directors, as the directors have restrained their servants; and have gone so far as to call in the power of the lords of the treasury to authorize the acceptance of any

bills beyond an amount prescribed in the act.

The false principles of this unmercantile transaction (to speak of it in the mildest terms) were too gross not to be visible to those who contrived it. That the company should be made to borrow such a sum as two hundred thousand pounds* at eight per cent. (or terms deemed by the company to be worse) in order first to buy a commodity, represented by themselves as depreciated in its ordinary market, in order afterwards to carry one-half of it through a circuitous trading voyage; depending for its ultimate success on the prudent and fortunate management of two or three sales, and purchases and re-sales of goods, and the chance of two or three markets, with all the risks of sea and enemy, was plainly no undertaking for such a body. The activity, private interest, and the sharp eye of personal superintendency, may now and then succeed in such projects; but the remote inspection and unwieldy movements of great public bodies can find nothing but loss in them. Their gains, comparatively small, ought to be upon sure grounds; but here (as the council states the matter) the private trader actually declines to deal; which is a proof more than necessary to demonstate the extreme imprudence of such an undertaking on the company's account. Still stronger and equally obvious objections lay to that member of the project, which regards the introduction of a contraband commodity into China, sent at such a risk of seizure, not only of the immediate object to be smuggled in, but of all the company's property in Canton, and possibly at a hazard to the existence of the British factory at that port.

It is stated, indeed, that a monopolizing company in Canton, called the Cohong, had reduced commerce there to a deplorable state, and had rendered the gains of private merchants, either in opium or any thing else, so small and so precarious, that they were no longer able, by purchasing that article, to furnish the company with money for a China investment. For this purpose, the person whose proposal is accepted, declares his project to be to set up a monopoly on the part of the company against the monopoly of the Chinese merchants; but as the Chinese monopoly is at home, and supported (as the minute referred to asserts) by the country magistrates; it is plain it is the Chinese company, not the English, which must prescribe the terms; particularly in a commodity, which, if withheld from them at their market price, they can, whenever they please, be certain of purchasing as a condemned contraband.

There are two further circumstances in this transaction, which strongly mark its character; the first is, that this adventure to China was not recommended to them by the factory of Canton; it was dangerous to attempt it without their previous advice, and an assurance grounded on the state of the market, and the dispositions of the government, that the measure, in a commercial light, would be profitable, or at least safe. Neither was that factory applied to on the state of the bills, which, upon their own account, they might be obliged to draw upon Europe, at a time when the council of Bengal direct them to draw bills to so enormous an amount.

The second remarkable circumstance is, that the board of trade in Calcutta (the proper administrator of all that relates to the company's investment) does not seem to have given its approbation to the project, or to have been at all consulted upon it. The sale of opium had been adjudged to the board of trade for the express purpose of selling it in Bengal, not in China; and of employing the produce of such sale in the manufactures of the country, in which the original commodity was produced. On the whole, it appears a mere trading speculation of the council, invading the department of others, without lights of its own, without authority, or information from any other quarter. In a commercial view, it straitened the company's investment, to which it was destined; as a measure of finance, it is a contrivance, by which a monopoly, formed for the increase of revenue, instead of becoming one of its resources, involves the treasury, in the first instance, in a debt of two hundred thousand pounds.

If Mr. Hastings, on the expiration of Mr. Mackenzie's contract, (the advantages of which to the company had been long doubtful,) had put himself in a situation to do his duty, some immediate loss to the revenue would have been the worst consequence of the alleged depreciation; probably it would not have been considerable. Mr. Mackenzie's contract, which at first was for three years, had been only renewed for a year. Had the same course been pursued with Mr. Sullivan, they would have had it in their power to adopt some plan, which might have secured them from any loss at all. But they pursued another plan; they carefully put all remedy still

* The whole sum has not been actually raised; but the deficiency is not very considerable.

longer out of their reach, by giving their contract for four years. To cover all these irregularities, they interest the settlement in their favour, by holding out to them the most tempting of all baits, in a chance of bills upon Europe.

In this manner the servants abroad have conducted themselves with regard to Mr. Sulivan's contract for opium, and the disposal of the commodity. In England, the court of directors took it into consideration. First as to the contract, in a letter dated 12th July, 1782, they say, that "having condemned the contract entered into with Mr. Mackenzie for the provision of opium, they cannot but be *surprised* at your having concluded a new contract for *four* years relative to that article with Mr. Stephen Sulivan, without leaving the decision of it to the court of directors."

The sentiments of the directors are proper, and worthy of persons in public trust. Their *surprise* indeed at the disobedience to their orders is not perfectly natural in those who for many years have scarcely been obeyed in a single instance. They probably asserted their authority, at this time, with as much vigour as their condition admitted.

They proceed: "We do not mean (say they) to convey any censure on Mr. Sulivan respecting the transaction; but we cannot withhold our displeasure from the governour-general and council at such an instance of *contempt* of our authority." They then proceed justly to censure the removal of the inspection, and some other particulars of this gross proceeding. As to the criminality of the parties, it is undoubtedly true, that a breach of duty in servants is highly aggravated by the rank, station, and trust of the offending party. But no party, in such conspiracy to break orders, appear to us wholly free from fault.

The directors did their duty in reprobating this contract; but it is the opinion of your committee, that further steps ought to be taken to inquire into the legal validity of a transaction, which manifestly attempts to prevent the court of directors from applying any remedy to a grievance which has been for years the constant subject of complaints.

Both Mr. Sulivan and Mr. Hastings are the company's servants, bound by their covenants and their oaths to promote the interest of their masters, and both equally bound to be obedient to their orders. If the governour-general had contracted with a stranger, not apprised of the company's orders, and not bound by any previous engagement, the contract might have been good; but whether a contract made between two servants, contrary to the orders of their common master, and to the prejudice of his known interest, be a breach of trust on both sides; and whether the contract can in equity have force to bind the company, whenever they shall be inclined to free themselves and the country they govern from this mischievous monopoly, your committee think a subject worthy of further inquiry.

With regard to the disposal of the opium, the directors very properly condemn the direct contraband, but they approve the trading voyage. The directors have observed nothing concerning the loans. They probably reserved that matter for future consideration.

In no affair has the connection between servants abroad and persons in power among the proprietors of the India company been more discernible than in this. But if such confederacies, cemented by such means, are suffered to pass without due animadversion, the authority of parliament must become as inefficacious as all other authorities have proved, to restrain the growth of disorders either in India or in Europe.

SALT.

THE reports made by the two committees of the house, which sat in the years 1772 and 1773, of the state and conduct of the inland trade of Bengal up to that period, have assisted the inquiries of your committee with respect to the third and last article of monopoly, viz. that of salt; and made it unnecessary for them to enter into so minute a detail on that subject as they have done on some others.

Your committee, find that the late Lord Clive constantly asserted, that the salt trade in Bengal had been a monopoly time immemorial; that it ever was and ever must be a monopoly; and that Coja Wazid, and other merchants long before him, had given to the nabob and his ministers two hundred thousand pounds per annum for the exclusive privilege. The directors, in their letter of the 24th December, 1776, paragraph seventy-six, say, "that it has ever been in a great measure an exclusive trade."

The secret committee report, that under the government of the nabobs, the duty on salt made in Bengal was two and an half per cent. paid by Mussulmen, and five per cent.

paid by Gentoos. On the accession of Mir Cassim in 1760, the claim of the company's servants to trade in salt, duty free, was first avowed. Mr. Vansittart made an agreement with him, by which the duties should be fixed at nine per cent. The council annulled the agreement, and reduced the duty to two and an half per cent. On this, Mir Cassim ordered, that no customs or duties whatsoever should be collected for the future. But a majority of the council (22d March, 1763) resolved, that the making the exemption general was a breach of the company's privileges; and that the nabob should be positively required to recall it, and collect duties as before from the country merchants, and all other persons, who had not the protection of the company's dustuck. The directors, as the evident reason of the thing, and as their duty required, disapproved highly of these transactions, and ordered (8th February, 1764,) *a final and effectual stop to be put to the inland trade in salt*, and several other articles of commerce. But other politics and other interests prevailed; so that, in the May following, a general court resolved, that it should be recommended to the court of directors to reconsider the preceding orders. In consequence of which, the directors ordered the governour and council to form a plan, in concert with the nabob, for regulating the inland trade.

On these last orders Lord Clive's plan was formed in 1765 for engrossing the sole purchase of salt, and dividing the profits among the company's seniour servants. The directors, who had hitherto reluctantly given way to a monopoly under any idea, or for any purposes, disapproved of this plan, and on the 17th of May, 1766, ordered it to be abolished; but they substituted no other in its room. In this manner things continued until November, 1767, when the directors repeated their orders for excluding all persons whatsoever, excepting the natives only, from being concerned in the inland trade in salt; and they declared, that (vide par. 90) "*such trade is hereby abolished and put a final end to.*" In the same letter (par. 92) they ordered that the salt trade should be laid open to the natives in general, subject to such a duty as might produce one hundred and twenty thousand pounds a year. This policy was adopted by the legislature. In the act of 1773, it was expressly provided, that it should not be lawful for any of his majesty's subjects to engage, intermeddle, or be any way concerned, directly or indirectly, in the inland trade in salt, except on the India company's account.

Under the positive orders of the company, the salt trade appears to have continued open from 1768 to 1772. The act indeed contained an exception in favour of the company, and left them a liberty of dealing in salt upon their own account. But still this policy remained unchanged, and their orders unrevoked. But in the year 1772, without any instruction from the court of directors indicating a change of opinion or system, the whole produce was again monopolized, professedly for the use of the company, by Mr. Hastings. Speaking of this plan, he says: (letter to the directors, 22d February, 1775,) "No new hardship has been imposed upon the salt manufacturers by taking the management of that article into the hands of government; the only difference is, that the profit, which was before reaped by English gentlemen and by Banians, is now acquired by the company." In May, 1766, the directors had condemned the monopoly *on any conditions whatsoever*. "At that time they thought it neither consistent with their honour nor their dignity to promote such an exclusive trade." "They considered it too as disgraceful *and below the dignity of their present situation* to allow of such a monopoly; and that, were they to allow it under any restrictions, they should consider themselves as assenting and subscribing to all the mischiefs, which Bengal had presented to them for four years past."

Notwithstanding this solemn declaration, in their letter of 24th December, 1776, they approve the plan of Mr. Hastings, and say, "that the monopoly *on its present footing* can be no considerable grievance to the country," &c.

This, however, was a rigorous monopoly. The account given of it by General Clavering, Colonel Monson, and Mr. Francis, in their minute of 11th January, 1775, in which the situation of the Molungees, or persons employed in the salt manufacture, is particularly described, is stated at length in the appendix. Mr. Hastings himself says, "the power of obliging Molungees to work has been customary from time immemorial."

Nothing but great and clear advantage to government could account for, and nothing at all perhaps could justify the revival of monopoly thus circumstanced. The advantage proposed by its revival was the transferring the profit, which was before reaped by English gentlemen and Banians, to the company. The profits of the former were not problema-

tical. It was to be seen what the effect would be of a scheme to transfer them to the latter, even under the management of the projector himself. In the revenue consultations of September, 1766, Mr. Hastings said, "many causes have since combined to reduce this article of revenue *almost to nothing*. The plan, which I am *now* inclined to recommend for the future management of the salt revenue, differs widely from that which I adopted under different circumstances."

It appears that the ill success of his former scheme did not deter him from recommending another. Accordingly, in July, 1777, Mr. Hastings proposed, and it was resolved, that the salt mahls should be let, *with* the lands, to the farmers and Zemindars for a ready money rent, including duties; the salt to be left to their disposal.

After some trial of this method, Mr. Hastings thought fit to abandon it. In September, 1780, he changed his plan a third time, and proposed the institution of a *salt office*—the salt was to be again engrossed for the benefit of the company, and the management conducted by a number of salt agents.

From the preceding facts it appears, that in this branch of the company's government little regard has been paid to the ease and welfare of the natives; and that the directors have no where shown greater inconsistency than in their orders on this subject. Yet salt, considering it as a necessary of life, was by no means a safe and proper subject for so many experiments and innovations. For ten years together the directors reprobated the idea of suffering this necessary of life to be engrossed on *any condition whatsoever*; and strictly prohibited all Europeans from trading in it. Yet, as soon as they were made to expect from Mr. Hastings, that the profits of the monopoly should be converted to their own use, they immediately declared, that it "could be no considerable grievance to the country," and authorized its continuance; until he himself, finding it produced little or nothing, renounced it of his own accord. Your committee are apprehensive that this will at all times, whatever flattering appearance it may wear for a time, be the fate of any attempt to monopolize the salt for the profit of government. In the first instance it will raise the price on the consumer beyond its just level; but that evil will soon be corrected by means ruinous to the company as monopolists, viz. by the embezzlement of their own salt, and by the importation of foreign salt, neither of which the government of Bengal may have power for any long time to prevent. In the end, government will probably be undersold, and beaten down to a losing price. Or, if they should attempt to force all the advantages from this article, of which by every exertion it may be made capable, it may distress some other part of their possessions in India, and destroy, or at least impair, the natural intercourse between them. Ultimately it may hurt Bengal itself, and the produce of its landed revenue, by destroying the vent of that grain, which it would otherwise barter for salt.

Your committee think it hardly necessary to observe that the many changes of plan which have taken place in the management of the salt trade, are far from honourable to the company's government; and, that, even if the monopoly of this article were a profitable concern, it should not be permitted. Exclusive of the general effect of this and of all monopolies, the oppressions which the manufacturers of salt, called *Molungees*, still suffer under it, though perhaps alleviated in some particulars, deserve particular attention. There is evidence enough on the company's records to satisfy your committee that these people have been treated with great rigour; and not only defrauded of the due payment of their labour, but delivered over, like cattle, in succession to different masters, who, under pretence of buying up the balances due to their preceding employers, find means of keeping them in perpetual slavery. For evils of this nature there can be no perfect remedy, as long as the monopoly continues. They are in the nature of the thing, and cannot be cured or effectually counteracted even by a just and vigilant administration on the spot. Many objections occur to the farming of any branch of the public revenue in Bengal, particularly against farming the salt lands. But the dilemma to which government, by this system, is constantly reduced, of authorizing great injustice, or suffering great loss, is alone sufficient to condemn it. Either government is expected to support the farmer or contractor in all his pretensions by an exertion of power, which tends of necessity to the ruin of the parties subjected to the farmer's contract, and to the suppression of free trade;—or, if such assistance be refused him, he complains that he is not supported—that private persons interfere with his contract—that the manufacturers desert their labour, and that proportionate deductions must be allowed him.

After the result of their examination into the general nature and effect of this monopoly, it

remains only for your committee to inquire whether there was any valid foundation for that declaration of Mr. Hastings, which we conclude must have principally recommended the monopoly of salt to the favour of the court of directors; viz. "that the profit, which was before reaped by English gentlemen, and by Banians, was now acquired by the company." On the contrary, it was proved and acknowledged before the governour-general and council, when they inquired into this matter in March, 1775, that the chiefs and councils of those districts, in which there were salt mahls, reserved particular salt farms for their *own* use, and divided the profits, in certain stated proportions, among themselves and their assistants. But, unless a detail of these transactions, and of the persons concerned in them, should be called for by the house, it is our wish to avoid entering into it. On one example only your committee think it just and proper to insist, stating first to the house on what principles they have made this selection.

In pursuing their inquiries, your committee have endeavoured chiefly to keep in view the conduct of persons in the highest stations, particularly of those, in whom the legislature, as well as the company, have placed a special confidence; judging that the conduct of such persons is not only most important in itself, but most likely to influence the subordinate ranks of the service. Your committee have also examined the proceedings of the court of directors on all those instances of the behaviour of their servants that seemed to deserve, and did sometimes attract, their immediate attention. They constantly find that the negligence of the court of directors has kept pace with, and must naturally have quickened, the growth of the practices which they have condemned. Breach of duty abroad will always go hand in hand with neglect of it at home. In general, the court of directors, though sufficiently severe in censuring offences, and sometimes in punishing those whom they have regarded as offenders of a lower rank, appear to have suffered the most conspicuous, and, therefore, the most dangerous, examples of disobedience and misconduct in the first department of their service, to pass with a feeble and ineffectual condemnation. In those cases which they have deemed too apparent and too strong to be disregarded even with safety to themselves, and against which their heaviest displeasure has been declared, it appears to your committee that their interference, such as it was, had a mischievous, rather than a useful tendency. A total neglect of duty in this respect, however culpable, is not to be compared, either in its nature or in its consequences, with the destructive principles on which they have acted. It has been their practice, if not system, to inquire, to censure, and not to punish. As long as the misconduct of persons in power in Bengal was encouraged by nothing but the hopes of concealment, it may be presumed, that they felt some restraint upon their actions, and that they stood in some awe of the power placed over them. Whereas it is to be apprehended, that the late conduct of the court of directors tells them, in effect, that they have nothing to fear from the certainty of a discovery.

On the same principle on which your committee have generally limited their researches to the persons placed by parliament, or, raised or put in nomination by the court of directors to the highest station in Bengal, it was also their original wish to limit those inquiries to the period at which parliament interposed its authority between the company and their servants, and gave a new constitution to the presidency of Fort William. If the company's servants had taken a new date from that period, and if from thenceforward their conduct had corresponded with the views of the legislature, it is probable that a review of the transactions of remoter periods would not have been deemed necessary, and that the remembrance of them would have been gradually effaced, and finally buried in oblivion. But the reports which your committee have already made, have shown the house that from the year 1772, when those proceedings commenced in parliament, on which the act of the following year was founded, abuses of every kind have prevailed and multiplied in Bengal to a degree unknown in former times, and are perfectly sufficient to account for the present distress of the company's affairs both at home and abroad. The affair which your committee now lays before the house, occupies too large a space in the company's records, and is of too much importance in every point of view, to be passed over.

Your committee find that in March, 1775, a petition was presented to the governour-general and council by a person called Coja Kaworke, an Armenian merchant resident at Dacca, (of which division Mr. Richard Barwell had lately been chief,) setting forth in substance, that in November, 1772, the petitioner had farmed a certain salt district called *Savage-poor*, and had entered into a contract with the committee of circuit for providing and delivering to the India company the salt

produced in that district: that in 1773 he farmed another called *Selimabad* on similar conditions: he alleges, that in February, 1774, when Mr. Barwell arrived at Dacca, he charged the petitioner with 125,500 rupees (equal to 13,000*l.*) as a contribution; and, in order to levy it, did the same year deduct 20,799 rupees from the amount of the *advance-money*, which was ordered to be paid to the petitioner, on account of the India company, for the provision of salt in the two farms; and, after doing so, compelled the petitioner to execute and give him four different bonds for 77,627 rupees, in the name of one *Porran Paul*, for the remainder of such contribution or unjust profit.

Such were the allegations of the petition relative to the unjust exaction. The harsh means of compelling the payment make another and very material part; for the petitioner asserts, that in order to recover the amount of these bonds, guards were placed over him, and that Mr. Barwell, by ill usage and oppressions, recovered from him, at different times, 48,656 Arcot rupees, besides 283 rupees extorted by the guard;—that, after this payment two of the bonds, containing 36,313 rupees, were restored to him, and he was again committed to the charge of four *Peons* (or guards) to pay the amount of the remaining two bonds. The petition further charges, that the said gentlemen and his people had also extorted from the petitioner other sums of money, which, taken together, amounted to 25,000 rupees.

But the heaviest grievance alleged by him is, that after the sums of money had been extorted on account of the farms, the faith usual in such transactions is allowed not to have been kept; but, after the petitioner had been obliged to buy or compound for the farms, that they were taken from him;—"that the said Richard Barwell, Esquire, about his departure from Dacca, in October, 1774, for self-interest, wrested from the petitioner the aforesaid two mahls or destricts, and farmed them to another person, notwithstanding he had extorted from the petitioner a considerable sum of money on account of those Pergunnahs."

To this petition your committee find two accounts annexed, in which the sums said to be paid to or taken by Mr. Barwell, and the respective dates of the several payments, are specified; and they find that the account of particulars agrees with and makes up the gross sum charged in the petition.

Mr. Barwell's immediate answer to the preceding charge is contained in two letters to the board, dated 23d and 24th of March, 1775. The answer is remarkable. He asserts, that "the whole of Kaworke's relation is a gross misrepresentation of facts; that the simple fact was, that in January, 1774, the salt mahls of Savage-poor and Selimabad became *his*, and were re-let by *him* to this man, in the names of Bussant Roy and Kissen Deb, on condition that he should account with him (*Mr. Barwell*) for profits to a certain sum; and that he (*Mr. Barwell*) engaged for Savage-poor, *in the persuasion of its being a very profitable farm*;" and he concludes with saying, "if I am mistaken in my reasoning, and *the wish to add to my fortune has warped my judgment*, in a transaction that may appear to the board in a light different to what I view it in, it is past; I cannot recall it; and I rather choose to admit an error than deny a fact." In his second letter he says, "To the honourable court of directors I will submit all my rights in the salt contracts I engaged in; and if, in their opinion, those rights vest in the company, I will account to them for the last shilling I have received from such contracts, my intentions being upright; and, as I never did wish to profit myself to the prejudice of my employers, by their judgment I will be implicitly directed."

The majority of the board desired that Kaworke's petition should be transmitted to England by the ship then under despatch; and it was accordingly sent, with Mr. Barwell's replies. Mr. Barwell moved that a committee should be appointed to take into consideration what he had to offer on the subject of Kaworke's petition and a committee was accordingly appointed, consisting of all the members of the council, except the governour-general.

The committee opened their proceedings with reading a second petition from Kaworke, containing corrected accounts of cash, said to be forcibly taken, and of the extraordinary and unwarrantable profits taken or received from him by Richard Barwell, Esquire; all which are inserted at large in the appendix. By these accounts Mr. Barwell is charged with a balance, or debt, of 22,421 rupees to Kaworke. The principal difference between him and Mr. Barwell arises from a different mode of stating the accounts acknowledged to exist between them. In the account current, signed by Mr. Barwell, he gives Kaworke credit for for the receipt of 98,426 rupees, and charges him with a balance of 27,073 rupees.

The facts stated, or admitted by Mr. Barwell, are as follows: that the salt farms of Selimabad and Savage-poor were *his*, and re-

let by him to the two Armenian merchants, Michael and Kaworke, on condition of their paying him 125,000 rupees, exclusive of their engagements to the company; that the engagement was written in the name of *Busant Roy* and *Kissen Deb Sing:* and Mr. Barwell says, that the reason of its being "in these people's names was, because *it was not thought consistent with the public regulations that the names of any European should appear.*"

It is remarkable that this policy was carried to a still greater length: means were used to remove such an obnoxious proceeding as far as possible from the public eye; and they were such as will strongly impress the house with the facility of abuse, and the extreme difficulty of detection in every thing which relates to the Indian administration. For these substituted persons were again represented by the further substitution of another name, viz. *Rada Churn Dey*, whom Mr. Barwell asserts to be a real person living at Dacca, and who *stood for the factory of Dacca;* whereas the Armenian affirms, that there was *no* such person as *Rada Churn*, and that it was a fictitious name.

Mr. Barwell, in his justification, proceeds to affirm, that Coja Kaworke never had the management of the salt mahls, "*but on condition of accounting to the former chief and to Mr. Barwell for a specified advantage arising from them*—that Mr. Barwell determined, *without he could reconcile the interests of the public with his own private emoluments*, that he would not engage in this concern; and that, when he took an interest in it, *it was for specified benefit in money*, and every condition in the public engagement to be answered."

Your committee have stated the preceding facts in the same terms in which they are stated by Mr. Barwell. The house is to judge how far they amount to a defence against the charges contained in Kaworke's petition, or to an admission of the truth of the principal part of it. Mr. Barwell does not allow that compulsion was used to extort the money which he received from the petitioner, or that the latter was dispossessed of the farms in consequence of an offer made to Mr. Barwell by another person (*Ramsunder Paulet*) to pay him a lack of rupees more for it. The truth of these charges has not been ascertained. They were declared by Mr. Barwell to be false; but no attempt was made by him to invalidate or confute them, though it concerned his reputation, and it was his duty in the station wherein he was placed, that charges of such a nature should have been disapproved, at least the accuser should have been pushed to the proof of them. Nothing of this kind appears to have been done, or even attempted.

The transaction itself, as it stands, is clearly collusive; the form in which it is conducted is clandestine and mysterious in an extraordinary degree; and the acknowledged object of it a great illicit profit, to be gained by an agent and trustee of the company at the expense of his employers, and of which he confesses he has received a considerable part.

The committee of the governour-general and council appear to have closed their proceedings with several resolutions, which, with the answers given by Mr, Barwell as a defence, are inserted in the appendix. The whole are referred thither together, on account of the ample extent of the answer. These papers will be found to throw considerable light, not only on the points in question, but on the general administration of the company's revenues in Bengal. On some passages in Mr. Barwell's defence, or account of his conduct, your committee offer the following remarks to the judgment of the house:—

In his letter of the 23d March, 1775, he says, that he engaged for Savage-poor, *in the persuasion of its being a very profitable farm.* In this place your committee think it proper to state the 17th article of the regulations of the committee of circuit, formed in May, 1772, by the president and council, of which Mr. Barwell was a member, together with their own observations thereupon.

17th. "That no Peshcar, Banyan, or other servant, of whatever denomination, of the collector, or relation or dependent of any such servant, be allowed to farm lands, nor directly or indirectly to hold a concern in any farm, nor to be security for any farmer; that the collector be strictly enjoined to prevent such practices; and that, if it shall be discovered that any one, *under a false name, or any kind of collusion*, hath found means to evade this order, he shall be subject to an heavy fine, proportionate to the amount of the farm, and the farm shall be re-let, or made Khas: and if it shall appear that the collector shall have countenanced, approved, or connived at a breach of this regulation, he shall stand *ipso facto* dismissed from his collectorship. Neither shall any European, directly or indirectly, be permitted to rent lands in any part of the country."

Remark by the Board.

17th. "If the collector, or any persons who partake of his authority, are permitted to be

the farmers of the country, no other persons will dare to be their competitors, of course they will obtain the farms on their own terms. *It is not fit that the servants of the company should be dealers with their masters.* The collectors are checks on the farmers. If they themselves turn farmers, what checks can be found for *them?* What security will the company have for their property, or where are the Ryots to look for relief against oppressions?"

The reasons assigned for the preceding regulation seem to your committee to be perfectly just; but they can by no means be reconciled to those which induced Mr. Barwell to engage in the salt farms of Selimabad and Savage-poor. In the first place, his doing so is at length a direct and avowed, though at first a covert violation of the public regulation, to which he was himself a party, as a member of the government, as well as an act of disobedience to the company's positive orders on this subject. In their general letter of the 17th of May, 1766, the court of directors say, "We positively order, that no covenanted servant, or Englishman, residing under our protection, shall be suffered to hold any land for his own account, directly or indirectly, in his own name or that of others, or to be concerned in any farms or revenues whatsoever."

Secondly. If, instead of letting the company's lands or farms to indifferent persons, their agent or trustee be at liberty to hold them himself, he will always (on principles stated and adhered to in the defence) have a sufficient reason for farming them on his own account, since he can at all times make them as profitable as he pleases; or, if he leases them to a third person, yet reserves an intermediate profit for himself, that profit may be as great as he thinks fit, and must be necessarily made at the company's expense. If, at the same time, he be collector of the revenues, it will be his interest to recommend remissions in favour of the nominal farmer, and he will have it his power to sink the amount of his collections.

These principles, and the correspondent practices, leave the India company without any security that all the leases of the lands of Bengal may not have been disposed of under that administration, which made the five years' settlement in 1772, in the same manner, and for the same purpose.

To enable the house to judge how far this apprehension may be founded, it will be proper to state, that Mr. Nicholas Grueber, who preceded Mr. Barwell in the chiefship of Dacca, in a letter dated 29th of April, 1775, declares that he paid to the committee of circuit 12,000 rupees as their profit on a single salt farm; which sum, he says, "I paid the committee at their request, before their departure from Dacca, and reimbursed myself out of *the advances* directed to be issued for the provision of the salt. Thus one illicit and mischievous transaction always leads to another; and the irregular farming of revenue brings on the misapplication of the commercial advances."

Mr. Barwell professes himself to be sensible, "*that a wish to add to his fortune may possibly have warped his judgment;* and that *he rather chooses to admit an errour than deny a fact.*" But your committee are of opinion that the extraordinary caution, and the intricate contrivances with which his share in this transaction is wrapped up, form a sufficient proof that he was not altogether misled in his judgment; and though there might be some merit in acknowledging an error before it was discovered, there could be very little in a confession produced by previous detection.

The reasons assigned by Mr. Barwell in defence of the clandestine part of this transaction, seem to your committee to be insufficient in themselves, and not very fit to be urged by a man in his station. In one place he says, that "*it was not thought consistent with the public regulations that the names of any Europeans should appear.*" In another, he says, "I am aware of the objection that has been made to the English taking farms under the names of the natives, as prohibited by the company's orders; and I must *deviate* a little upon this. It has been generally understood that the scope and tendency of the honourable company's prohibition of farms to Europeans was meant only to exclude such as could not possibly, in their own persons, come under the jurisdiction of the Dewanny courts of Adawlet; because, upon any failure of engagements, upon any complaint of unjust oppression, or other cause of discontent whatever, it was supposed an European might screen himself from the process of the country judicature. But it was never supposed *that an European of credit and responsibility* was absolutely incapable from holding certain tenures under the sanction and authority of the country laws, or from becoming security for such native farmers, contractors, &c. &c. as he might protect and employ."

Your committee have opposed this construction of Mr. Barwell's to the positive or-

der, which the conduct it is meant to colour, has violated. "Europeans of credit and responsibility," that is, Europeans armed with wealth and power, and exercising offices of authority and trust, instead of being excepted from the spirit of the restriction, must be supposed the persons who are chiefly meant to be comprehended in it; for, abstract the idea of an European from the ideas of power and influence, and the restriction is no longer rational.

Your committee are therefore of opinion, that the nature of the evil, which was meant to be prevented by the above orders and regulations, was not altered, or the evil itself diminished, by the collusive methods made use of to evade them; and that, if the regulations were proper, (as they unquestionably were,) they ought to have been punctually complied with; particularly by the members of the government *who formed the plan*, and who, as trustees of the company, were especially answerable for their being duly carried into execution. Your committee have no reason to believe that it could ever have been generally understood "that the company's prohibition of farms to Europeans was meant only to exclude such as could not possibly, in their own persons, come under the jurisdiction of the Dewanny courts;"—no such restriction is so much as hinted at. And, if it had been so understood, Mr. Barwell was one of the persons who, from their rank, station, and influence, must have been the principal objects of the prohibition. Since the establishment of the company's influence in Bengal, no Europeans, of any rank whatever, have been subject to the process of the country judicature; and whether they act avowedly for themselves and take farms in their own name, or substitute native Indians to act for them, the difference is not material. The same influence that screened an European from the jurisdiction of the country courts, would have equally protected his native agent and representative. For many years past the company's servants have presided in those courts, and, in comparison with *their* authority, the native authority is nothing.

The earliest instructions, that appear to have been given by the court of directors, in consequence of these transactions in Bengal, are dated the 5th of February, 1777. In their letter of that date they applaud the proceedings of the board, meaning the majority, (then consisting of General Clavering, Colonel Monson, and Mr. Francis) *as highly meritorious*, and promise them their *firmest support*. "Some of the *cases*," they say, *are so flagrantly corrupt, and others attended with circumstances so oppressive to the inhabitants, that it would be unjust to suffer the delinquents to go unpunished*." With this observation their proceedings appear to have ended, and paused for more than a year.

On the 4th of March, 1778, the directors appear to have resumed the subject. In their letter of that date, they instructed the governour and council forthwith to commence a prosecution in the supreme court of judicature against the persons who composed the committee of circuit, or their representatives, and also against Mr. Barwell, in order to recover, for the use of the company, the amount of all advantages acquired by them from their several engagements in salt contracts and farms. Adverting however to the declaration made by Mr. Barwell, that he would account to the court of directors for the last shilling he had received, and abide implicitly by their judgment, they thought it probable that on being acquainted with their peremptory orders for commencing a prosecution, he might be desirous of paying his share of profits into the company's treasury; and they pointed out a precaution to be used in accepting such a tender on his part.

On this part of the transaction your committee observe, that the court of directors appear blameable in having delayed till February, 1777, to take any measure in consequence of advices so interesting and important, and on a matter, concerning which they had made so strong a declaration; considering that, early in April, 1776, they say "they had investigated the charges, and had then come to certain resolutions concerning them." But their delaying to send out positive orders for commencing a prosecution against the parties concerned, till March, 1778, cannot be accounted for. In the former letter they promise, if they should find it necessary, to return the original covenants of such of their servants as had been any ways concerned in the undue receipt of money, in order to enable the governour-general and council to recover the same by suits in the supreme court. But your committee do not find that the covenants were ever transmitted to Bengal. To whatever cause these instances of neglect and delay may be attributed, they could not fail to create an opinion in Bengal, that the court of directors were not heartily intent upon the execution of their own orders, and to discourage those members of government, who were disposed to undertake so invidious a duty.

In consequence of these delays, even their first orders did not arrive in Bengal until some time after the death of Colonel Monson, when the whole power of the board had devolved to Mr. Hastings and Mr. Barwell. When they sent what they call *their positive orders* in March, 1778, they had long been apprized of the death of Colonel Monson, and must have been perfectly certain of the effect which that event would have on the subsequent measures and proceedings of the governour-general and council. Their opinion of the principles of those gentlemen appears in their letter of the 28th of November, 1777, wherein they say, "they cannot but express their concern, that the power of granting away their property in perpetuity should have devolved upon such persons."

But the conduct of the court of directors appears to be open to objections of a nature still more serious and important. A recovery of the amount of Mr. Barwell's profits seems to be the only purpose, which they even professed to have in view. But your committee are of opinion, that to preserve the reputation and dignity of the government of Bengal was a much more important subject, and ought to have been their first consideration. The prosecution was not the pursuit of mean and subordinate persons, who might, with safety to the public interest, remain in their seats during such an inquiry into their conduct. It appears very doubtful whether, if there were grounds for such a prosecution, a proceeding in Great Britain were not more politic than one in Bengal. Such a prosecution ought not to have been ordered by the directors but upon grounds that would have fully authorized the recall of the gentleman in question. This prosecution, supposing it to have been seriously undertaken, and to have succeeded, must have tended to weaken the government, and to degrade it in the eyes of all India. On the other hand, to entrust a man, armed as he was with all the powers of his station, and indeed of the government, with the conduct of a prosecution against himself, was altogether inconsistent and absurd. The same letter, in which they give these orders, exhibits an example, which sets the inconsistency of their conduct in a stronger light, because the case is somewhat of a similar nature, but infinitely less pressing in its circumstances. Observing that the board of trade had commenced a prosecution against Mr. William Barton, a member of that board, for various acts of peculation committed by him, they say, "We must be of opinion that as *prosecutions are actually carrying on against him by our board of trade*, he is, during such prosecution at least, an improper person to hold a seat *at that board*; and therefore we direct that he be suspended from the company's service until our further pleasure concerning him be known." The principle laid down in this instruction, even before their own opinion concerning Mr. Barton's case was declared, and merely on the prosecution of others, serves to render their conduct not very accountable in the case of Mr. Barwell. Mr. Barton was in a subordinate situation, and his remaining or not remaining in it was of little or no moment to the prosecution. Mr. Barton was but one of seven; whereas Mr. Barwell was one of four, and, with the governour-general, was in effect the supreme council.

In the present state of power and patronage in India, and during the relations which are permitted to subsist between the judges, the prosecuting officers, and the council-general, your committee is very doubtful whether the mode of prosecuting the highest members in the Bengal government, before a court at Calcutta, could have been, in almost any case, advisable.

It is possible that particular persons, in high judicial and political situations may, by force of an unusual strain of virtue, be placed far above the influence of those circumstances, which in ordinary cases are known to make an impression on the human mind. But your committee, sensible that laws and public proceedings ought to be made for general situations, and not for personal dispositions, are not inclined to have any confidence in the effect of criminal proceedings where no means are provided for preventing a mutual connection, by dependencies, agencies and employments, between the parties who are to prosecute and to judge, and those who are to be prosecuted and to be tried.

Your committee, in a former report, have stated the consequences which they apprehended from the dependency of the judges on the governour-general and council of Bengal; and the house has entered into their ideas upon this subject. Since that time it appears that Sir Elijah Impey has accepted of the guardianship of Mr. Barwell's children, and was the trustee for his affairs. There is no law to prevent this sort of connection; and it is possible that it might not at all affect the mind of that judge, or (upon his account) indirectly influence the conduct of his brethren; but it must forcibly affect the minds of those who have matter of complaint against govern-

ment, and whose cause the court of directors appear to espouse, in a country where the authority of the court of directors has seldom been exerted, but to be despised; where the operation of laws is but very imperfectly understood; but where men are acute, sagacious, and even suspicious of the effect of all personal connections. Their suspicions, though perhaps not rightly applied to every individual, will induce them to take indications from the situations and connections of the prosecuting parties, as well as of the judges. It cannot fail to be observed, that Mr. Naylor, the company's attorney, lived in Mr. Barwell's house; the late Mr. Bogle, the company's commissioner of law suits, owed his place to the patronage of Mr. Hastings and Mr. Barwell, by whom the office was created for him; and Sir John Day, the company's advocate, who arrived in Bengal in February, 1779, had not been four months in Calcutta, when Mr. Hastings, Mr. Barwell, and Sir Eyre Coote, doubled his salary, contrary to the opinion of Mr. Francis and Mr. Wheler.

If the directors are known to devolve the whole cognizance of the offences charged on their servants, so highly situated, upon the supreme court, an excuse will be furnished, if already it has not been furnished, to the directors for declining the use of their own proper political power and authority in examining into, and animadverting on the conduct of their servants. Their true character as strict masters and vigilant governours will merge in that of prosecutors. Their force and energy will evaporate in tedious and intricate processes; in law suits which can never end, and which are to be carried on by the very dependants of those who are under prosecution. On their part, these servants will decline giving satisfaction to their masters, because they are already before another tribunal; and thus, by shifting responsibility from hand to hand, a confederacy to defeat the whole spirit of the law, and to remove all real restraints on their actions, may be, in time, formed between the servants, directors, prosecutors, and court. Of this great danger, your committee will take further notice in another place.

No notice whatever appears to have been taken of the company's orders in Bengal till the 11th of January, 1779, when Mr. Barwell moved, *that the claim made upon him by the court of directors should be submitted to the company's lawyers, and that they should be perfectly instructed to prosecute upon it.* In his minute of that date, he says "*that the state of his health had long since rendered it necessary for him to return to Europe.*"

Your committee observe, that he continued in Bengal another year. He says, "that he had hitherto waited for the arrival of Sir John Day, the company's advocate; but as the season was now far advanced, he wished to bring the trial speedily to issue."

In this minute he retracts his original engagement to submit himself to the judgment of the court of directors, "and to account to them for the last shilling he had received." He says, "that no merit had been given him for the offer; that a most unjustifiable advantage had been attempted to be made of it, by first declining it and *descending to abuse*, and then giving orders upon it, as if it had been rejected, when called upon by him in the person of his agent, to bring home the charge of delinquency."

Mr. Barwell's reflections on the proceedings of the court of directors are not altogether clearly expressed; nor does it appear distinctly to what facts he alludes. He asserts that a most unjustifiable advantage had been attempted to be made of his offer. The fact is, the court of directors have no where declined accepting it; on the contrary, they caution the governour-general and council about the manner of receiving the tender of the money, which they expect him to make. They say nothing of any call made on them by Mr. Barwell's agent in England; nor does it appear to your committee that they "have descended to abuse." They have a right, and it is their duty, to express in distinct and appropriate terms their sense of all blameable conduct in their servants.

So far as may be collected from the evidence of the company's records, Mr. Barwell's assertions do not appear well supported; but even if they were more plausible, your committee apprehend, that he could not be discharged from his solemn recorded promise to abide by the judgment of the court of directors. Their judgment was declared by their resolution to prosecute, which it depended upon himself to satisfy by making good his engagement. To excuse his not complying with the company's claims he says, "*that his compliance would be urged as a confession of delinquency, and to proceed from conviction of his having usurped on the rights of the company.*' Considerations of this nature might properly have induced Mr. Barwell to stand upon his right in the first instance, "*and to appeal* (to use his own words) *to the laws of his country*, in

order to vindicate his fame." But his performance could not have more weight to infer delinquency than his promise. Your committee think his observation comes too late.

If he had stood a trial when he first acknowledged the facts, and submitted himself to the judgment of the court of directors, the suit would have been carried on under the direction of General Clavering, Colonel Monson, and Mr. Francis; whereas, in the year 1779, his influence at the board gave him the conduct of it himself. In an interval of four years, it may be presumed that great alterations might have happened in the state of the evidence against him.

In the subsequent proceedings of the governour-general and council, the house will find that Mr. Barwell complained that his instances for carrying on the prosecution were ineffectual, owing to the legal difficulties and delays *urged by the company's law officers;* which your committee do not find have yet been removed. As far as the latest advices reach, no progress appears to have been made in the business. In July, 1782, the court of directors found it necessary to order an account of all suits against Europeans, depending in the supreme court of judicature, to be transmitted to them, and that no time should be lost in bringing them to a determination.

SALTPETRE.

The next article of direct monopoly, subservient to the company's export, is saltpetre. This, as well as opium, is far the greater part the produce of the province of Bahar. The difference between the management and destination of the two articles has been this: until the year 1782, the opium has been sold in the country, and the produce of the sale laid out in country merchandise for the company's export. A great part of the saltpetre is sent out in kind, and never has contributed to the interior circulation and commerce of Bengal. It is managed by agency on the company's account. The price paid to the manufacturer is invariable. Some of the larger undertakers receive advances to enable them to prosecute their work; but as they are not always equally careful or fortunate, it happens that large balances accumulate against them. Orders have been sent from Calcutta, from time to time, to recover their balances, with little or no success; but with great vexation to all concerned in the manufacture. Sometimes they have imprisoned the failing contractors in their own houses; a severity which answers no useful purpose. Such persons are so many hands detached from the improvement, and added to the burthen of the country. They are persons of skill drawn from the future supply of that monopoly, in favour of which they are prosecuted. In case of the death of the debtor, this rigorous demand falls upon the ruined houses of widows and orphans, and may be easily converted into a means either of cruel oppression, or a mercenary indulgence, according to the temper of the exacters.

Instead of thus having recourse to imprisonment, the old balance is sometimes deducted from the current produce. This, in these circumstances, is a grievous discouragement. People must be discouraged from entering into a business, when, the commodity being fixed to one invariable standard, and confined to one market, the best success can be attended only with a limited advantage, whilst a defective produce can never be compensated by an augumented price. Accordingly, very little of these advances has been recovered; and after much vexation the pursuit has generally been abandoned. It is plain that there can be no life and vigour in any business under a monopoly so constituted; nor can the true productive resources of the country, in so large an article of its commerce, ever come to be fully known.

The supply for the company's demand in England has rarely fallen short of two thousand tons, nor much exceded two thousand five hundred. A discretionary allowance of this commodity has been made to the French, Dutch, and Danes, who purchase their allotted shares at some small advance on the company's price. The supply destined for the London market is proportioned to the spare tonnage; and, to accommodate that tonnage, the saltpetre is sometimes sent to Madras, and sometimes even to Bombay; and that not unfrequently in vessels expressly employed for the purpose.

Mr. Law, chief of Patna, being examined on the effect of that monopoly, delivered his opinion, that, with regard to the company's *trade*, the monopoly was advantageous; but as sovereigns of the country they must be losers by it. These two capacities in the company are found in perpetual contradiction. But much doubt may arise whether this monopoly will be found advantageous to the company, either in the one capacity or the other. The gross commodity, monopolized for sale

in London, is procured from the revenues in Bengal; the certain is given for the hazardous. The loss of interest on the advances, sometimes the loss of the principal; the expense of carriage from Patna to Calcutta; the various loadings and unloadings, and insurance; (which though borne by the company, is still insurance;) the engagement for the ordnance, limited in price, and irregular in payment; the charge of agency and management through all its gradations and successions; when all these are taken into consideration, it may be found, that the gain of the company, as traders, will be far from compensating their loss as sovereigns. A body like the East-India company can scarcely, in any circumstance, hope to carry on the details of such a business, from its commencement to its conclusion, with any degree of success. In the subjoined estimate of profit and loss, the value of the commodity is stated at its invoice price at Calcutta. But this affords no just estimate of the whole effect of a dealing, where the company's charge commences in the first rudiments of the manufacture, and not at the purchase at the place of sale and valuation; for they may be heavy losses on the value at which the saltpetre is estimated, when shipped off on their account, without any appearance in the account; and the inquiries of your committee, to find the charges on the saltpetre previous to the shipping, have been fruitless.

BRITISH GOVERNMENT IN INDIA.

The other link by which India is bound to Great Britain, is the government established there originally by the authority of the East-India company, and afterwards modified by parliament, by the acts of 1773 and 1780. This system of government appears to your committee to be at least as much disordered, and as much perverted from every good purpose, for which lawful rule is established, as the trading system has been from every just principle of commerce. Your committee, in tracing the causes of this disorder through its effects, have first considered the government as it is constituted and managed within itself, beginning with its most essential and fundamental part, the order and discipline, by which the supreme authority of this kingdom is maintained.

The British government in India being a subordinate and delegated power, it ought to be considered as a fundamental principle in such a system, that it is to be preserved in the strictest obedience to the government at home. Administration in India, at an immense distance from the seat of the supreme authority; entrusted with the most extensive powers; liable to the greatest temptations; possessing the amplest means of abuse; ruling over a people guarded by no distinct or well-ascertained privileges, whose language, manners, and radical prejudices, render not only redress, but all complaint on their part, a matter of extreme difficulty; such an administration, it is evident, never can be made subservient to the interests of Great Britain, or even tolerable to the natives, but by the strictest rigour in exacting obedience to the commands of the authority lawfully set over it.

But your committee find, that this principle has been for some years very little attended to. Before the passing the act of 1773, the professed purpose of which was to secure a better subordination in the company's servants, such was the firmness with which the court of directors maintained their authority, that they displaced governour Cartier, confessedly a meritorious servant, for disobedience of orders; although his case was not a great deal more than a question by whom the orders were to be obeyed. Yet the directors were so sensible of the necessity of a punctual and literal obedience, that, conceiving their orders went to the parties, who were to obey, as well as to the act to be done, they proceeded with a strictness, that, in all cases, except that of their peculiar government, might well be considered as rigorous. But in proportion as the necessity of enforcing obedience grew stronger and more urgent, and in proportion to the magnitude and importance of the objects affected by disobedience, this rigour has been relaxed. Acts of disobedience, have not only grown frequent, but systematic; and they have appeared in such instances, and are manifested in such a manner, as to amount in the company's servants, to little less than absolute independence; against which, on the part of the directors, there is no struggle, and hardly so much as a protest to preserve a claim.

Before your committee proceed to offer to the house their remarks on the most distinguished of these instances, the particulars of which they have already reported, they deem it necessary to enter into some detail of a transaction equally extraordinary and important, though not yet brought into the view of parliament, which appears to have laid the foundation of the principle abuses that ensued,

as well as to have given strength and encouragement to those that existed. To this transaction, and to the conclusions naturally deducible from it, your committee attribute that general spirit of disobedience and independence which has since prevailed in the government of Bengal.

Your committee find, that in the year 1775, Mr. Lauchlan Macleane was sent into England as agent to the nabob of Arcot and to Mr. Hastings. The conduct of Mr. Hastings, in assisting to extirpate, for a sum of money to be paid to the company, the innocent nation of the Rohillas, had drawn upon him the censure of the court of directors, and the unanimous censure of the court of proprietors. The former had even resolved to prepare an application to his majesty for Mr. Hastings's dismission.

Another general court was called on this proceeding. Mr. Hastings was then openly supported by a majority of the court of proprietors, who professed to entertain a good opinion of his general ability and rectitude of intention, notwithstanding the unanimous censure passed upon him. In that censure they therefore seemed disposed to acquiesce, without pushing the matter further. But as the offence was far from trifling, and the condemnation of the measure recent, they did not directly attack the resolution of the directors to apply to his majesty, but voted in the ballot, that it should be re-considered. The business therefore remained in suspense, or it rather seemed to be dropped, for some months, when Mr. Macleane took a step, of a nature not in the least to be expected from the condition in which the cause of his principal stood, which was apparently as favourable as the circumstances could bear. Hitherto the support of Mr. Hastings in the general court was only by a majority; but if, on application from the directors, he should be removed, a mere majority would not have been sufficient for his restoration. The door would have been barred against his return to the company's service, by one of the strongest and most substantial clauses in the regulating act of 1773. Mr. Macleane, probably to prevent the manifest ill consequences of such a step, came forward with a letter to the court of directors, declaring his provisional powers, and offering, on the part of Mr. Hastings, an immediate resignation of his office.

On this occasion the directors showed themselves extremely punctilious with regard to Mr. Macleane's powers. They probably dreaded the charge of becoming accomplices to an evasion of the act, by which Mr. Hastings, resigning the service, would escape the consequences attached by law to a dismission; they therefore demanded Mr. Macleane's written authority. This he declared he could not give into their hands, as the letter contained other matters, of a nature extremely confidential; but that if they would appoint a committee of the directors, he would readily communicate to them the necessary parts of the letter, and give them perfect satisfaction with regard to his authority. A deputation was accordingly named; who reported that they had seen Mr. Hastings's instructions, contained in a paper in *his own hand-writing*, and that the authority for the act now done by Mr. Macleane was clear and sufficient. Mr. Vansittart, a very particular friend of Mr. Hastings, and Mr. John Stuart, his most attached and confidential dependant, attended on this occasion, and proved that directions, perfectly correspondent to this written authority, had been given by Mr. Hastings in their presence. By this means, the powers were fully authenticated; but the letter remained safe in Mr. Macleane's hands.

Nothing being now wanting to the satisfaction of the directors, the resignation was formally accepted. Mr. Wheler was named to fill the vacancy, and presented for his majesty's approbation, which was received. The act was complete, and the office that Mr. Hastings had resigned, was legally filled. This proceeding was officially notified in Bengal, and General Clavering, as seniour in council, was in course to succeed to the office of governour-general.

Mr. Hastings, to extricate himself from the difficulties into which this resignation had brought him, had recourse to one of those unlooked-for and hardy measures which characterize the whole of his administration. He came to a resolution of disowning his agent, denying his letter, and disavowing his friends. He insisted on continuing in the execution of his office, and supported himself by such reasons as could be furnished in such a cause. An open schism instantly divided the council. General Clavering claimed the office, to which he ought to succeed, and Mr. Francis adhered to him; Mr. Barwell stuck to Mr. Hastings. The two parties assembled separately, and every thing was running fast into a confusion, which suspended government, and might very probably have ended in a civil war, had not the judges of the supreme court, on a reference to them, settled the con-

troversy, by deciding that the resignation was an invalid act, and that Mr. Hastings was still in the legal possession of his place, which had been actually filled up in England. It was extraordinary, that the nullity of this resignation should not have been discovered in England, where the act authorizing the resignation then was; where the agent was personally present; where the witnesses were examined; and where there was and could be no want of legal advice, either on the part of the company or of the crown. The judges took no light matter upon them in superseding and thereby condemning the legality of his majesty's appointment; for such it became by the royal approbation.

On this determination, such as it was, the division in the meeting, but not in the minds of the council, ceased. General Clavering uniformly opposed the conduct of Mr. Hastings to the end of his life. But Mr. Hastings showed more temper under much greater provocations. In disclaiming his agent, and in effect accusing him of an imposture the most deeply injurious to his character and fortune, and of the grossest forgery to support it, he was so very mild and indulgent, as not to show any active resentment against his unfaithful agent, nor to complain to the court of directors. It was expected in Bengal, that some strong measures would have immediately been taken to preserve the just rights of the king and of the court of directors; as this proceeding, unaccompanied with the severest animadversion, manifestly struck a decisive blow at the existence of the most essential powers of both. But your committee do not find that any measures whatever, such as the case seemed to demand, were taken. The observations made by the court of directors, on what they call "*these extraordinary transactions*," are just and well applied. They conclude with a declaration, "*that the measures which it might be necessary for them to take, in order to retrieve the honour of the company, and to prevent the like abuse from being practised in future, should have their most serious and earliest consideration*;" and with this declaration they appear to have closed the account, and to have dismissed the subject forever.

A sanction was hereby given to all future defiance of every authority in this kingdom. Several other matters of complaint against Mr. Hastings, particularly the charge of peculation, fell to the ground at the same time. Opinions of counsel had been taken, relative to a prosecution at law upon this charge, from the then attorney and the then solicitor-general and Mr. Dunning [now the Lords Thurlow, Loughborough, and Ashburton] together with Mr. Adair [now recorder of London.] None of them gave a positive opinion against the grounds of the prosecution. The attorney-general doubted on the *prudence* of the proceedings, and censured (as it well deserved) the ill statement of the case. Three of them, Mr. Wedderburn, Mr. Dunning, and Mr. Adair, were clear in favour of the prosecution. No prosecution however was had, and the directors contented themselves with censuring and admonishing Mr. Hastings.

With regard to the supreme council, the members, who chose (for it was choice only) to attend to the orders which were issued from the languishing authority of the directors, continued to receive unprofitable applauses and no support. Their correspondence was always filled with complaints, the justice of which was always admitted by the court of directors; but this admission of the existence of the evil showed only the impotence of those who were to administer the remedy. The authority of the court of directors, resisted with success in so capital an instance as that of the resignation, was not likely to be respected in any other. What influence it really had on the conduct of the company's servants may be collected from the facts that followed it.

The disobedience of Mr. Hastings has of late not only become uniform and systematical in practice, but has been in principle also supported by him and by Mr. Barwell, late a member of the supreme council in Bengal, and now a member of this house.

In this consultation of the 20th of July, 1778, Mr. Barwell gives it as his solemn and deliberate opinion, that "while Mr. Hastings is in the government, the respect and dignity of his station should be supported. In these sentiments I must decline an acquiescence in *any* order, which has a *tendency* to bring the government into disrepute. As the company have the means and power of forming their own administration in India, they may at pleasure place whom they please at the head; but in my opinion they are not authorized to treat a person in that post with *indignity*."

By treating them with indignity (in the particular cases wherein they have declined obedience to orders) they must mean those orders which imply a censure on any part of their conduct, a reversal of any of their pro-

ceedings, or, as Mr. Barwell expresses himself in words very significant, in any orders, that have a *tendency* to bring *their* government into disrepute. The amplitude of this latter description reserving to them the judgment of any orders, which have so much as that *tendency*, puts them in possession of a complete independence; an independence including a despotic authority over the subordinates and the country. The very means taken by the directors for enforcing their authority becomes, on this principle, a cause of further disobedience. It is observable, that their principles of disobedience do not refer to any local consideration overlooked by the directors, which might supersede their orders, or to any change of circumstances, which might render another course advisable, or even perhaps necessary; but it relates solely to their own interiour feelings in matters relative to themselves, and their opinion of their own dignity and reputation. It is plain, that they have wholly forgotten who they are, and what the nature of their office is. Mr. Hastings and Mr. Barwell are servants of the company; and as such, by the duty inherent in that relation, as well as by their special covenants, were obliged to yield obedience to the orders of their masters. They have, as far as they were able, cancelled all the bonds of this relation, and all the sanctions of these covenants.

But in thus throwing off the authority of the court of directors, Mr. Hastings and Mr. Barwell have thrown off the authority of the whole legislative power of Great Britain; for, by the regulating act of the thirteenth of his majesty, they are expressly "directed and required to pay due obedience to *all* such orders as they shall receive from the court of directors of the said united company." Such is the declaration of the law. But Mr. Barwell declares, that he declines obedience to *any* orders, which he shall interpret to be indignities on a governour-general. To the clear injunctions of the legislature, Mr. Hastings and Mr. Barwell have thought proper to oppose their pretended reputation and dignity; as if the chief honour of public ministers in every situation was not to yield a cheerful obedience to the laws of their country. Your committee to render evident to this house the general nature and tendency of this pretended dignity, and to illustrate the real principles upon which they appear to have acted, think it necessary to make observations on three or four of the cases, already reported, of marked disobedience to particular and special orders; on one of which the above extraordinary doctrine was maintained.

These are the cases of Mr. Fowke, Mr. Bristow, and Mahomed Reza Khân. In a few weeks after the death of Colonel Monson, Mr. Hastings having obtained a majority in council by his casting vote, Mr. Fowke and Mr. Bristow were called from their respective offices of residents at Benares and Oude; places, which have become the scenes of other extraordinary operations under the conduct of Mr. Hastings in person. For the recall of Mr. Bristow no reason was assigned. The reason assigned for the proceeding with regard to Mr. Fowke was, that "the purposes for which he was appointed were then fully accomplished."

An account of the removal of Mr. Fowke was communicated to the court of directors, in a letter of the 22d of December, 1776. On this notification, the court had nothing to conclude, but that Mr. Hastings from a rigid pursuit of œconomy in the management of the company's affairs, had recalled a useless officer. But without alleging any variation whatsoever in the circumstances, in less than twenty days after the order for the recall of Mr. Fowke, and the *very day after the despatch* containing an account of the transaction, Mr. Hastings recommended Mr. Graham to this very office; the end of which, he declared to the directors but the day before, had been fully accomplished. And not thinking this sufficient, he appointed Mr. D. Barwell as his assistant, at a salary of about four hundred pounds a year. Against this extraordinary act General Clavering and Mr. Francis entered a protest.

So early as the 6th of the following January, the appointment of these gentlemen was communicated in a letter to the court of directors, without any sort of colour, apology, or explanation. That court found a servant removed from his station without complaint, contrary to the tenour of one of their standing injunctions. They allow, however, and with reason, that, "if it were possible to suppose that a saving, &c. had been his motive, they would have approved his proceeding. But that when, immediately afterwards, two persons with *two* salaries had been appointed to execute the office, which had been filled with reputation by Mr. Fowke alone, and that Mr. Graham enjoys all the emoluments annexed to the office of Mr. Fowke;" they properly conclude, that Mr. Fowke was removed without just cause to make way for Mr.

Graham; and strictly enjoin, that the former be reinstated in his office of resident as postmaster of Benares. In the same letter they assert their rights in a tone of becoming firmness, and declare, that "on no account we can permit our orders to be disobeyed, or our authority disregarded."

It was now to be seen which of the parties was to give way. The orders were clear and precise, and enforced by a strong declaration of the resolution of the court to make itself obeyed. Mr. Hastings fairly joined issue upon this point with his masters; and, having disobeyed the general instructions of the company, determined to pay no obedience to their special order.

On the 21st of July, 1778, he moved, and succeeded in his proposition, that the execution of these orders should be suspended. The reason he assigned for this suspension lets in great light upon the true character of all these proceedings, "that his consent to the recall of Mr. Graham would be adequate to his own resignation of the service, as it would inflict such a wound on *on his authority and influence*, that he could not maintain it."

If that had been his opinion, he ought to have resigned, and not disobeyed; because it was not necessary that he should hold his office; but it was necessary, that, whilst he held it, he should obey his superiours and submit to the law. Much more truly was his conduct a virtual resignation of his lawful office, and at the same time an usurpation of a situation which did not belong to him, to hold a subordinate office, and to refuse to act according to its duties. Had his authority been self-originated, it would have been wounded by his submission; but in this case the true nature of his authority was affirmed, not injured, by his obedience, because it was a power derived from others, and, by its essence, to be executed according to their directions.

In this determined disobedience he was supported by Mr. Barwell, who on that occasion delivered the dangerous doctrine, to which your committee lately adverted. Mr. Fowke, who had a most material interest in this determination, applied by letter to be informed concerning it. An answer was sent, acquainting him coldly, and without any reason assigned, of what had been resolved relative to his office. This communication was soon followed by another letter from Mr. Fowke, with great submission and remarkable decency, asserting his right to his office, under the authority of the court of directors; and for solid reasons, grounded on the company's express orders, praying to be informed of the charge against him. This letter appears to have been received by Mr. Hastings and Mr. Barwell very loftily. Mr. Hastings said, "that such applications were irregular; that they are not accountable to Mr. Fowke for their resolution respecting him. The reasons for suspending the execution of the orders of the court of directors contain *no charge, nor the slightest imputation of a charge* against Mr. Fowke; *but I see no reason why the board should condescend to tell him so.*" Accordingly, the proposition of Mr. Francis and Mr. Wheler, to inform Mr. Fowke "that they had no reason to be dissatisfied with his conduct," on the previous question was rejected.

By this resolution, Mr. Hastings and Mr. Barwell discovered another principle, and no less dangerous than the first; namely, that persons, deriving a valuable interest under the company's orders, so far from being heard in favour of their right, are not so much as to be informed of the grounds on which they are deprived of it.

The arrival soon after of Sir Eyre Coote, giving another opportunity of trial, the question for obedience to the company's orders [1st and 5th of April, 1779,] was again brought on by Mr. Francis, and again received a negative. Sir Eyre Coote, though present, and declaring that had he been at the original consultation he should have voted for the immediate execution of the company's orders, yet was resolved to avoid what he called *any kind of retrospect*. His neutrality gained the question in favour of this the third resolution for disobedience to orders.

The resolution in Bengal being thus decisively taken, it came to the turn of the court of directors to act their part. They did act their part exactly in their old manner; they had recourse to their old remedy of repeating orders which had been disobeyed. The directors declare to Mr. Hastings and Mr. Barwell (though without any apparent reason) that "they have read *with astonishment their formal resolution* to suspend the execution of their orders; that they shall take such measures as appear necessary for *preserving the authority of the court of directors*, and for preventing *such instances of direct and wilful* disobedience in their servants in time to come." They then renew their directions concerning Mr. Fowke. The event of this *sole* measure, taken to preserve their authority, and to prevent instances of direct and wil-

ful disobedience, your committee will state in its proper place, taking into consideration for the present the proceedings relative to Mr. Bristow, and to Mahomed Reza Khân, which were altogether in the same spirit. But as they were diversified in the circumstances of disobedience as well from the case of Mr. Fowke as from one another, and as these circumstances tend to discover other dangerous principles of abuse, and the general prostrate condition of the authority of parliament in Bengal, your committee proceed first to make some observations upon them.

The province of Oude, enlarged by the accession of several extensive and once flourishing territories, that is, by the country of the Rohillas, the district of Corah and Allahabad, and other provinces betwixt the Ganges and Jumna, is under the nominal dominion of one of the princes of the country, called Asoph ul Dowlah. But a body of English troops is kept up in his country; and the greatest part of his revenues are, by one description or another, substantially under the administration of English subjects. He is, to all purposes, a dependant prince. The person to be employed in his dominions to act for the committee, was therefore of little consequence in his capacity of negotiator; but he was vested with a trust, great and critical in all pecuniary affairs. These provinces of dependence lie out of the system of the company's ordinary administration; and transactions there cannot be so readily brought under the cognizance of the court of directors. This renders it the more necessary that the residents in such places should be persons not disapproved of by the court of directors. They are to manage a permanent interest, which is not, like a matter of political negotiation, variable, and which, from circumstances, might possibly excuse some degree of discretionary latitude in construing their orders. During the lifetime of General Clavering and Colonel Monson, Mr. Bristow was appointed to this presidency, and that appointment, being approved and confirmed by the court of directors, became in effect their own. Mr. Bristow appears to have shown himself a man of talents and activity. He had been principally concerned in the negociations, by which the company's interest in the higher provinces had been established, and those services were considered by the presidency of Calcutta as so meritorious, that they voted him ten thousand pounds as a reward, with many expressions of esteem and honour.

Mr. Bristow, however, was recalled by Mr. Hastings and Mr. Barwell, who had then acquired the majority, without any complaint having been assigned as the cause of his removal, and Mr. Middleton was sent in his stead to reside at the capital of Oude. The court of directors, as soon as they could be apprized of this extraordinary step, in their letter of the 4th of July, 1777, express their strongest disapprobation of it; they order Mr. Middleton to be recalled, and Mr. Bristow to be reinstated in his office. In December, 1778, they repeat their order. Of these repeated orders no notice was taken. Mr. Bristow, fatigued with unsuccessful private applications, which met with a constant refusal, did, at length, on the 1st of May, 1780, address a letter to the board, making his claim of right; entitling himself to his offices, under the authority of the court of directors; and complaining of the hardships, which he suffered by the delay in admitting him to the exercise of it. This letter your committee have inserted at large in the fifth report; having found nothing whatsoever exceptionable in it, although it seems to have excited the warmest resentment in Mr. Hastings.

This claim of the party gave no new force to the order of the directors, which remained without any attention from the board, from Mr. Bristow's arrival until the 1st of May, and with as little from the 1st of May to the 2d of October following. On that day Mr. Francis, after having caused the repeated orders of the court of directors to be first read, moved, that Mr. Bristow should be reinstated in his office. This motion, in itself just and proper in the highest degree, and in which no fault could be found, but that it was not made more early, was received by Mr. Hastings with the greatest marks of resentment and indignation. He declares in his minute, that "were the most determined adversary of the British nation to possess, by whatever means, a share in the administration, he could not devise a measure in *itself* so pernicious, or *time* it so effectual for the *ruin* of the British interests in India." Then turning to the object of the motion, he says, "I will ask who is Mr. Bristow? that a member of the administration should, at such a time, hold him forth as *an instrument for the degradation of the first executive member of this government*. What are the professed objects of his appointment? What are the *merits* and services, or what the *qualifications*, which entitle him to such uncommon distinction? Is it for his superiour *integrity*, or for

his eminent *abilities*, that he is to be dignified at such hazard of every consideration, that ought to influence the members of this administration? Of the former (his integrity) I know *no proofs*; I am sure it is not an evidence of it, that he has been *enabled* to make himself the principal in such a *competition*; and for the test of his abilities, I appeal to the letter which he has *dared* to write to this board, and which I am ashamed to say we have *suffered*. I desire that a copy of it may be inserted in this day's proceedings, that it may stand before the eyes of every member of the board, when he shall give his vote upon a question for giving their confidence to a man, *their servant*, who has publicly insulted *them*, *his masters*, and the members of the government, to whom he owes *his obedience*; who, assuming an association with the court of directors, and erecting himself into a *tribunal*, has *arraigned* them for *disobedience* of orders, *passed judgment* upon them, *and condemned or acquitted them as their magistrate or superiour*. Let the board consider, whether a man, possessed of so *independent* a spirit, who has already shown a *contempt* of their authority, who has shown himself *so wretched an advocate for his own cause, and negotiator for his own interest*, is fit to be trusted with the guardianship of *their* honour, the execution of *their* measures, and as *their* confidential manager and negotiator with the princes of India. As the motion has been unaccompanied be any reasons which should induce the board to pass their acquiescence in it, I presume the motion which preceded it, for *reading the orders of the court of directors, was intended to serve as an argument for it, as well as an introduction to it*. The last of those was dictated the 23d December, 1778, almost two years past. They were dictated at a time when, I am sorry to say, the court of directors were in the *habit of casting reproach upon my conduct, and heaping indignities upon my station*."

Had the language and opinions which prevail throughout this part of the minute, as well as in all the others to which your committee refer, been uttered suddenly, and in a passion, however unprovoked, some sort of apology might be made for the governour-general. But when it was produced five months after the supposed offence, and then delivered in writing, which always implies the power of a greater degree of recollection and self-command, it shows how deeply the principles of disobedience had taken root in his mind, and of an assumption to himself of exorbitant powers, which he chooses to distinguish by the title of "*his prerogative*." In this also will be found an obscure hint of the cause of his disobedience, which your committee conceive to allude to the main cause of the disorders in the government of India, namely an under-hand communication with Europe.

Mr. Hastings, by his confidence in the support derived from this source, or from the habits of independent power, is carried to such a length as to consider a motion to obey the court of directors as a degradation of the executive government in his person. He looks upon a claim under that authority, and a complaint that it has produced no effect, as a piece of daring insolence, which he is ashamed that the board has suffered. The behaviour which your committee consider as so intemperate and despotic, he regards as a culpable degree of patience and forbearance. Major Scott, his agent, enters so much into the principles of Mr. Hastings's conduct, as to tell your committee that, in his opinion, Lord Clive would have sent home Mr. Bristow a prisoner upon such an occasion. It is worthy of remark, that in the very same breath that Mr. Hastings so heavily condemns a junior officer in the company's service (not a *servant* of the council, as he hazards to call him, but *their fellow-servant*) for merely complaining of a supposed injury, and requiring redress, he so far forgets his own subordination as to reject the orders of the court of directors even as an *argument* in favour of appointing a person to an office; to presume to censure *his* undoubted masters; and to accuse them of having been "in a habit of casting reproaches upon him, and heaping indignities on *his* station." And it is to be observed that this censure was not for the purpose of seeking or obtaining redress for any injury, but appeared rather as a reason for refusing to obey their lawful commands. It is plainly implied in that minute, that no servant of the company, in Mr. Bristow's rank, would dare to act in such a manner, if he had not, by indirect means, obtained a premature fortune. This alone is sufficient to show the situation of the company's servants in the subordinate situations, when the mere claim of a right, derived from the sovereign legal power, becomes fatal not only to the objects which they pursue, but deeply wound that reputation both for ability and integrity, by which alone they are to be qualified for any other.

If any thing could add to the disagreeable situation of those who are submitted to an

authority conducted on such principles, it is this: the company has ordered that no complaint shall be made in Europe against any of the council without being previously communicated to them; a regulation formed upon grave reasons; and it was certainly made in *favour* of that board. But if a person, having ground of complaint against the council, by making use of the mode prescribed in favour of that very council, and by complaining to themselves, commits an offence, for which he may be justly punished, the directors have not regulated the mode of complaint; they have actually forbidden it: they have, on that supposition, renounced their authority; and the whole system of their officers is delivered over to the arbitrary will of a few of their chief servants.

During the whole day of that deliberation, things wore a decided face. Mr. Hastings stood to his principles in their full extent, and seemed resolved upon unqualified disobedience. But, as the debate was adjourned to the day following, time was given for expedients; and such an expedient was hit upon by Mr. Hastings, as will, no doubt, be unexpected by the house; but it serves to throw new lights upon the motives of all his struggles with the authority of the legislature.

The next day the council met upon the adjournment. Then Mr. Hastings proposed, as a compromise, a division of the object in question. One half was to be surrendered to the authority of the court of directors, the other was reserved for his dignity. But the choice he made of his own share in this partition is very worthy of notice. He had taken his *sole* ground of objection against Mr. Bristow on the supposed ill effect, that such an appointment would have on the minds of the Indian powers. He said, "that these powers could have no dependence on his fulfilling his engagements, *or maintaining the faith of treaties*, which he might offer for their acceptance, if they saw him treated with such contempt." Mr. Bristow's appearing in a political character was the *whole* of his complaint; yet, when he comes to a voluntary distribution of the duties of the office, he gives Mr. Bristow those very political negotiations, of which, but the day before, he had in such strong terms declared him personally incapable; whose appointment he considered to be fatal to those negotiations; and which he then spoke of as a measure, in *itself*, such as the the bitterest adversary to Great Britain would have proposed. But, having thus yielded his whole ground of ostensible objection, he reserved to his own appointment the entire management of the pecuniary trust. Accordingly he named Mr. Bristow for the former, and Mr. Middleton for the latter. On his own principles, he ought to have done the very reverse. On every justifiable principle he ought to have done so; for, a servant, who for a long time resists the orders of his masters, and when he reluctantly gives way, obeys them by halves, ought to be remarkably careful to make his actions correspond with his words, and to put himself out of all suspicion with regard to the purity of his motives. It was possible that the political reasons which were solely assigned against Mr. Bristow's appointment, might have been the real motives of Mr. Hastings's opposition. But these he totally abandons, and holds fast to the pecuniary department. Now, as it is notorious that most of the abuses of India grow out of money-dealing, it was peculiarly unfit for a servant, delicate with regard to his reputation, to require a *personal* and confidential agent in a situation merely official; in which secrecy and personal connections could be of no possible use, and could only serve to excite distrust. Matters of account cannot be made too public; and it is not the most confidential agent, but the most responsible, who is the fittest for the management of pecuniary trusts. That man was the fittest at once to do the duty and to remove all suspicions from the gouvernour-general's character, whom, by not being of his appointment, he could not be supposed to favour for private purposes; who must naturally stand in awe of his inspection; and whose misconduct could not possibly be imputed to him. Such an agency, in a pecuniary trust, was the very last on which Mr. Hastings ought to have risked his disobedience to the orders of the direction; or, what is even worse for his motives, a direct contradiction to all the principles, upon which he had attempted to justify that bold measure.

The conduct of Mr. Hastings, in the affair of Mahomed Reza Khân, was an act of disobedience of the same character, but wrought by other instruments. When the Duanny (or universal perception aud management of the revenues) of Bengal was acquired to the company, together with the command of the army, the nabob, or governour, naturally fell into the rank rather of a subject than that even of a dependant prince. Yet the preservation of such a power in such a degree of subordination with the criminal jurisdiction, and the care of the public order annexed to it, was a wise and laudable policy. It preserved a

portion of the government in the hands of the natives; it kept them in respect; it rendered them quiet on the change; and it prevented that vast kingdom from wearing the dangerous appearance, and still more, from sinking into the terrible state of a country of conquest. Your committee has already reported the manner in which the company (it must be allowed, upon pretences that will not bear the slightest examination) diverted from its purposes a great part of the revenues appropriated to the country government; but they were very properly anxious, that what remained should be well administered. In the life-time of General Clavering and Colonel Monson, Mahomed Reza Khân, a man of rank among the natives, was judged by them the fittest person to conduct the affairs of the nabob, as his naib or deputy; an office well known in the antient constitution of these provinces, at a time when the principal magistrates, by nature and situation, were more efficient. This appointment was highly approved, and in consequence confirmed by the court of directors. Mr. Hastings and Mr. Barwell, however, thought proper to remove him. To the authority of the court of directors they opposed the request of the nabob, stating that he was arrived at the common age of maturity and stood *in no need of a deputy to manage his affairs*. On former occasions, Mr. Hastings conceived a very low opinion of the condition of the person whom he thus set up against the authority of his masters. "On a former occasion (as the directors tell him) and to serve a very different purpose, he had not scrupled to declare it as visible as the sun, that the nabob was a mere pageant without even the *shadow of authority*." But on this occasion he became more substantial. Mr. Hastings and Mr. Barwell yielded to his representation, that a deputy was not necessary, and accordingly Mahomed Reza Khân was removed from his office.

However, lest any one should so far mistrust their understanding as to conceive them the dupes of this pretext, they, who had disobeyed the company's orders under colour that *no deputy was necessary*, immediately appoint another deputy. This independent prince, who, as Mr. Hastings said, "had an incontestible right to his situation, and that it was by his inheritance," suddenly shrunk into his old state of insignificance, and was even looked upon in so low a light, as to receive a severe reprimand from Mr. Hastings for *interposing* in the duties of his (the deputy's) office.

The company's orders, censuring this transaction in the strongest terms, and ordering Mahomed Reza Khân to be immediately restored to the office of Naib Subadar, were received in Calcutta in November, 1779. Mr. Hastings acted on this with the firmness which he had shown on other occasions; but in his principles he went further. Thinking himself assured of some extraordinary support, suitable to the open and determined defiance, with which he was resolved to oppose the lawful authority of his superiours, and to exercise a despotic power, he no longer adhered to Mr. Barwell's distinction of the orders, which had a tendency to bring his government into disrepute. This distinction afforded sufficient latitude to disobedience. But here he disdained all sorts of colours and distinctions. He directly set up an independent right to administer the government according to his pleasure; and he went so far as to bottom his claim to act independently of the court of directors on the very statute which commanded his obedience to them. .

He declared roundly, "that he should *not* yield to the authority of the court of directors in *any* instance, in which it should require his concession of the rights which he held under an act of parliament." It is too clear to stand in need of proof, that he neither did or could hold any authority that was not subject, in every particle of it, and in every instance, in which it could be exercised, to the orders of the court of directors.

He therefore refused to back the company's orders with any requisition from himself to the nabob, but merely suffered them to be transmitted to him, leaving it to him to do just as he thought proper. The nabob, who called Mr. Hastings "his patron, and declared he would never do any thing without his consent and approbation," perfectly understood this kind of signification. For the second time, the nabob recovered from his trance of pageantry and insignificance, and collected courage enough to write to the council in these terms: "I administer the affairs of the nizamut (the government,) which are the affairs of my *own family*, by my *own authority*, and shall do so; and I never can *on any account agree* to the appointment of the nabob Mahomed Reza Khân to the Naib Subahship." Here was a second independent power in Bengal. This answer from that power proved as satisfactory as it was resolute. No further notice was taken of the orders of the court of directors, and Mahomed Reza Khân found their protection much more of a shadow,

than the pageant of power, of which he aspired to be the representative.

This act of disobedience differs from the others in one particular, which, in the opinion of your committee, rather aggravates than extenuates the offence. In the others, Messrs. Hastings and Barwell took the responsibility on themselves; here they held up the pretext of the country government. However, they obtained thereby one of the objects, which they appear to have systematically pursued. As they had, in the other instances, shown to the British servants of the company, that the directors were not able to protect them, here the same lesson was taught to the natives. Whilst the matter lay between the native power and the servants, the former was considered by Mr. Hastings in the most contemptible light. When the question was between the servants and the court of directors, the native power was asserted to be a self-derived, hereditary, uncontrollable authority, and encouraged to act as such.

In this manner the authority of the British legislature was at that time treated with every mark of reprobation and contempt. But soon after, a most unexpected change took place, by which the persons, in whose favour the court of directors had in vain interposed, obtained specific objects, which had been refused to them: things were, however, so well contrived, that legal authority was nearly as much affronted by the apparent compliance with their orders, as by the real resistance they had before met with. After long and violent controversies, an agreement took place between Mr. Hastings and Mr. Francis. It appears, that Mr Hastings, embarassed with the complicated wars and ruinous expenses, into which his measures had brought him, began to think of procuring peace at home. The agreement originated in a conversation, held on Christmas-day 1779, between Major Scott, then aid-de-camp and now agent to Mr. Hastings, and Mr. Ducarrel, a gentlemen high in the company's service at Calcutta. Mr. Scott, in consequence of this conversation, was authorized to make overtures to Mr. Francis through Mr. Ducarrel; to declare Mr. Hastings tired of controversy, expressing his wish to have the Mahratta war entirely left to him;—that there were certain points *he could not give up:* that he could *not* (for reasons he then assigned) *submit* to the restoration of Mr. Fowke, Mahomed Reza Khân, and Mr. Bristow; *that he had not the smallest personal objection to them*, and would willingly provide for them in any other line.

Mr. Francis, in this treaty, insisted on those very points, which Mr. Hastings declared he could never give up; and that his conditions were the company's orders; that is, the restoration of the persons, whom they had directed to be restored. The event of this negotiation was, that Mr. Hastings at length submitted to Mr. Francis, and that Mr. Fowke and Mahomed Reza Khân were reinstated in their situations.

Your committee observe on this part of the transaction of Mr. Hastings, that, as long as the question stood upon his obedience to his lawful superiors, so long he considered the restoration of these persons as a gross indignity, the submitting to which would destroy all his credit and influence in the country. But when it was to accommodate his own occasions in a treaty with a fellow-servant, all these difficulties instantly vanish; and he finds it perfectly consistent with his dignity, credit, and influence, to do for Mr. Francis what he had refused to the strict and reiterated injunctions of the court of directors. Tranquillity was, however, for a time restored by this measure, though it did not continue long. In about three months an occasion occurred, in which Mr. Francis gave some opposition to a measure proposed by Mr. Hastings, which brought on a duel; upon the mischievous effects of which your committee have already made their observations.

The departure of Mr. Francis soon after for Europe, opened a new scene, and gave rise to a third revolution. Lest the arrangement with the servants of the company should have the least appearance of being mistaken for obedience to their superiours, Mr. Francis was little more than a month gone, when Mr. Fowke was again recalled from Benares, *and Mr. Bristow soon after from Oude.* In these measures Mr. Hastings has combined the principles of disobedience, which he had used in all the cases hitherto stated. In his minute of consultation on this recall, he refers to his former minutes; and he adds, that he has "a recent motive in the necessity of removing any circumstance, which may contribute to lessen his *influence* in the effect of any negotiations, in which he may be engaged in the prosecution of his intended visit to Lucknow." He here reverts to his old plea of preserving his influence; not content with this, as in the case of Mahomed Reza Khân he had called in the aid of the nabob of Bengal, he here calls in the aid of the nabob of Oude, who, on reasons exactly tallying with those given by Mr. Hastings, desires that Mr. Bris-

tow may be removed. The true weight of these requisitions will appear, if not sufficiently apparent from the known situation of the parties, by the following extract of a letter from this nabob of Oude to his agent at Calcutta, desiring him to acquaint Mr. Hastings, that "if it is proper I will write to the king [of Great Britain] and the vizier [one of his majesty's ministers] and the chief of the company, in *such a manner as he shall direct, and in the words that he shall order*, that Mr. Bristow's views may be thwarted there." There is no doubt of the entire co-operation of the nabob Asoph ul Dowlah in all the designs of Mr. Hastings, and in thwarting the views of any persons, who place their reliance on the authority of this kingdom.

As usual, the court of directors appear in their proper order in the procession. After this third act of disobedience with regard to the same person and the same office, and after calling the proceedings unwarrantable, "*in order to vindicate and uphold their own authority, and thinking it a duty incumbent on them to maintain the authority of the court of directors*," they again order Mr. Bristow to be reinstated, and Mr. Middleton to be recalled: in this circle the whole moves with great regularity.

The extraordinary operations of Mr. Hastings, that soon after followed in every department, which was the subject of all these acts of disobedience, have made them appear in a light peculiarly unpropitious to his cause. It is but too probably from his own accounts, that he meditated some strong measure, both at Benares and at Oude, at the very time of the removal of those officers. He declares he knew that his conduct in those places was such, as to lie very open to malicious representations. He must have been sensible that he was open to such representations from the beginning; he was therefore impelled by every motive, which ought to influence a man of sense, by no means to disturb the order which he had last established.

Of this, however, he took no care: but he was not so inattentive to the satisfaction of the sufferers, either in point of honour or of interest. This was most strongly marked in the case of Mr. Fowke. His reparation to that gentleman, in point of honour, is as full as possible. Mr. Hastings "declared that he approved his character and his conduct in office, and believed that he might *depend upon his exact and literal obedience and fidelity* in the execution of the functions annexed to to it." Such is the character of the man, whom Mr. Hastings a second time removed from the office, to which he told the court of directors, in his letter of the 3d of March, 1780, he had appointed him in conformity to their orders. On the 14th of January, 1781, he again finds it an indispensable obligation in him to exercise powers "*inherent* in the constitution of his government." On this principle he claimed "the right of nominating the agent of his own choice to the residence of Benares; that it is a representative situation: that speaking for myself *alone* it may be *sufficient* to say, that Mr. Francis Fowke is not *my* agent; *that I cannot give him my confidence;* that while he continues at Benares, he stands as a screen between the rajah and this government, instead of an instrument of controul; that the rajah himself, and every chief in Hindostan, will regard it as the pledge and the foundation, of his independence." Here Mr. Hastings has got back to his old principles, where he takes post as on strong ground. This he declares "to be his objection to Mr. Fowke, and that it is insuperable." The very line before this paragraph he writes of this person, to whom he *could* not give his *confidence*, that "he believed he might *depend* upon *his fidelity*, and his exact and literal obedience." Mr. Scott, who is authorized to defend Mr. Hastings, supported the same principles before your committee, by a comparison, that avowedly reduces the the court of directors to the state of a party against their servants. He declared, that in his opinion "it would be just *as absurd* to *deprive him* of the power of nominating his ambassadour at Benares, as it would be to force on the ministry of this country an ambassadour from the *opposition*." Such is the opinion entertained in Bengal, and that but too effectually realized, of the relation between the principal servants of the company, and the court of directors.

So far the reparation, in point of honour, to Mr. Fowke was complete. The reparation, in point of interest, your commitee do not find to have been equally satisfactory; but they do find it to be of the most extraordinary nature, and of the most mischievous example. Mr. Fowke had been deprived of a place of rank and honour; the place of a public vaokeel, or representative. The recompense provided for him is a succession to a contract. Mr. Hastings moved, that on the expiration of Colonel Morgan's contract, he should be appointed agent to all the boats employed for the military service of that establishment,

with a commission of *fifteen per cent. on all disbursements in that office;* permitting Mr. Fowke, at the same time, to draw his allowance of an hundred pounds a month, as resident, until the expiration of the contract, and for three months after.

Mr. Hastings is himself struck, as every one must be, with so extraordinary a proceeding; the principle of which he observes "is liable to *one* material objection." That one is material indeed; for no limit being laid down for the expense in which the per-centage is to arise, it is the direct interest of the person employed to make his department as expensive as possible. To this Mr. Hastings answers, that "he is convinced by experience it will be better performed;" and yet, he immediately after subjoins, "this *defect* can *only* be corrected by the probity of the person entrusted with so important a charge; and I am willing to have it understood, as a proof of *the confidence I repose in Mr. Fowke*, that I have proposed his appointment, in opposition *to a general principle*, to a trust so constituted."

In the beginning of this very minute of consultation, Mr. Hastings removes Mr. Fowke from the residency of Benares, because "he cannot give him his confidence;" and yet, before the pen is out of his hand, he violates one of the soundest general principles in the whole system of dealing, in order to give a proof of the confidence he reposes in that gentleman. This apparent gross contradiction is to be reconciled but by one way; which is, that confidence with Mr. Hastings comes and goes with his opposition to legal authority. Where that authority recommends any person, his confidence in him vanishes; but, to show that it is the authority, and not the person, he opposes, when that is out of sight, there is no rule so sacred, which is not to be violated to manifest his real esteem and perfect trust in the person, whom he has rejected. However, by overturning general principles to compliment Mr. Fowke's integrity, he does all in his power to corrupt it; at the same he establishes an example, that must either subject all future dealings to the same pernicious clause, or which, being omitted, must become a strong implied charge on the integrity of those who shall hereafter be excluded from a trust so constituted.

It is not foreign to the object of your committee in this part of their observations, which relates to the obedience to orders, to remark upon the manner in which the orders of the court of directors, with regard to this kind of dealing in contracts, are observed.—These orders relate to contracts; and they contain two standing regulations.

1st. That all contracts shall be publicly advertised, and that the most reasonable proposals shall be accepted.

2dly. That two contracts, those of provisions and for carriage bullocks, shall be only annual.

These orders are undoubtedly some correctives to the abuses, which may arise in this very critical article of public dealing.—But the house will remark, that if the business usually carried on by contracts can be converted at pleasure into agencies, like that of Mr. Fowke, all these regulations perish of course; and there is no direction whatsoever for restraining the most prodigal and corrupt bargains for the public.

Your committee have inquired into the observance of these necessary regulations; and they find, that they have, like the rest, been entirely contemned, and contemned with entire impunity. After the period of Colonel Monson's death, and Mr. Hastings and Mr. Barwell obtained the lead in the council, the contracts were disposed of without at all advertising for proposals. Those in 1777 were given for three years; and the gentlemen in question growing, by habit and encouragement, into more boldness, in 1779 the contracts were disposed of for five years; and this they did at the eve of the expiration of their own appointment to the government. This increase in the length of the contracts, though contrary to orders, might have admitted some excuse, if it had been made, even in appearance, the means of lessening the expense. But the advantages allowed to the contractors, instead of being diminished, were enlarged, and in a manner far beyond the proportion of the enlargement of terms. Of this abuse and contempt of orders a judgment may be formed by the single contract for supplying the army with draught and carriage bullocks. As it stood at the expiration of the contract in 1779, the expense of that service was about one thousand three hundred pounds a month. By the new contract given away in September of that year, the service was raised to the enormous sum of near six thousand pounds a month. The monthly increase, therefore, being four thousand seven hundred pounds, it constitutes a total increase of charges for the company, in the five years of the contract, of no less a sum than two hundred and thirty-five thousand pounds. Now, as the former contract was, without doubt, sufficiently advantageous, a judgment may be formed of the

extravagance of the present. The terms, indeed, pass the bounds of all allowance for negligence and ignorance of office.

The case of Mr. Bellis's contract for supplying provisions to the fort is of the same description; and, what exceedingly increases the suspicion against this profusion in contracts, made in direct violation of orders, is, that they are always found to be given in favour of persons closely connected with Mr. Hastings in his family, or even in his actual service.

The principles upon which Mr. Hastings and Mr. Barwell justify this disobedience, if admitted, reduce the company's government, so far as it regards the supreme council, to a mere patronage; to a mere power of nominating persons to, or removing them from, an authority, which is not only despotic with regard to those who are subordinate to it, but, in all its acts, entirely independent of the legal power, which is nominally superior. These are principles directly leading to the destruction of the company's government. A correspondent practice being established, (as in this case of contracts as well as others it has been,) the means are furnished of effectuating this purpose: for the common superiour, the company, having no power to regulate or to support their own appointments, nor to remove those whom they wish to remove, nor to prevent the contracts from being made use of against their interest, all the English in Bengal must naturally look to the next in authority; they must depend upon, follow, and attach themselves to him solely. And thus a party may be formed of the whole system of civil and military servants for the support of the subordinate, and defiance of the supreme power.

Your committee being led to attend to the abuse of contracts, which are given upon principles fatal to the subordination of the service, and in defiance of orders, revert to the disobedience of orders in the case of Mahomed Reza Khân.

This transaction is of a piece with those that preceded it. On the 6th of July, 1781, Mr. Hastings announced to the board the arrival of a messenger, and introduced a requisition from the young nabob Mobarek ul Dowla, "that he might be *permitted to dispose of his own stipend, without being made to depend on the will of another*. In favour of this requisition Mr. Hastings urged various arguments:—that the nabob could no longer be deemed a minor;—that he was twenty-six years of age, and father of many children;—that his understanding was much improved *of late* by an attention to his education; that these circumstances gave him a claim to the uncontrolled exercise of domestic authority; and it might reasonably be supposed, that he would pay a greater regard to a just œconomy in his own family, than had been observed by those who were aliens to it. For these reasons Mr. Hastings recommended to the board, that Mahomed Reza Khân should be immediately divested of the office of superintendant of the nabob's household, *and that the nabob Mobarek ul Dowla should be entrusted with the exclusive and entire receipts and disbursements of his stipend, and the uncontrolled management and regulation of his household.* Thus far your committee are of opinion, that the conclusion corresponds with the premises; for, supposing the fact to be established or admitted, that the nabob, in point of age, capacity, and judgment, was qualified to act for himself, it seems reasonable that the management of his domestic affairs should not be withheld from him. On this part of the proceeding your committee will only observe, that if it were strictly true that the nabob's understanding had been much improved *of late* by an attention to his education, (which seems an extraordinary way of describing the qualifications of a man of six-and-twenty, the father of many children,) the merit of such improvement must be attributed to Mahomed Reza Khân, who was the only person of rank and character connected with him, or who could be supposed to have any influence over him. Mr. Hastings himself reproaches the nabob with *raising mean men to be his companions*; and tells him plainly, *that some persons both of bad character and base origin had found the means of insinuating themselves into his company and constant fellowship.* In such society it is not likely that either the nabob's morals or his understanding could have been *much improved*; nor could it be deemed prudent to leave him without any check upon his conduct.—Mr. Hastings's opinion on this point may be collected from what he did, but by no means from what he said on the occasion.

The house will naturally expect to find that the nabob's request was granted, and that the resolution of the board was conformable to the terms of Mr. Hastings's recommendation. Yet the fact is directly the reverse. Mr. Hastings, after advising *that the nabob should be entrusted with the exclusive and entire receipts and disbursements of his stipend*, immediately corrects that advice, *being aware that*

so sudden and unlimited a disposal of a large revenue might at first encourage a spirit of dissipation in the nabob; and reserves *to himself* a power of establishing, *with the nabob's consent*, such a plan for the regulation and equal distribution of the nabob's expenses, *as should be adopted to the dissimilar appearances of preserving his interests and his independence at the same time.* On the same complicated principles the subsequent resolution of the board professes to allow the nabob the management of his stipend and expenses; with *an hope*, however, (which, considering the relative situation of the parties, could be nothing less than an injunction,) that he would submit to such a plan *as should be agreed on between him* and the governour-general.

The drift of these contradictions is sufficiently apparent. Mahomed Reza Khân was to be divested of his office at all events, and the management of the nabob's stipend committed to other hands. To accomplish the first, the nabob is said to be "now arrived at that time of life, when a man may be supposed capable, if ever, of managing his own concerns." When this principle has answered the momentary purpose for which it was produced, we find it immediately discarded, and an opposite resolution formed on an opposite principle, viz. that he shall *not* have the management of own concerns *in consideration of his want of experience.*

Mr. Hastings, on his arrival at Moorshedabad, gives Mr. Wheler an account of his interview with the nabob, and of the nabob's implicit submission to his advice. The principal, if not the sole, object of the whole operation appears from the result of it. Sir John D'Oyly, a gentleman in whom Mr. Hastings places particular confidence, succeeds to the office of Mahomed Reza Khân, and to the same controul over the nabob's expenses. Into the hands of this gentlemen the nabob's stipend was *to be immediately paid, as every intermediate channel would be an unavoidable cause of delay;* and to *his* advice the nabob was required to give the same attention, as if it were given by Mr. Hastings himself. One of the conditions prescribed to the nabob was, that he should admit no Englishman to his presence, without previously consulting Sir John D'Oyly; *and he must forbid any person of that nation to be intruded without his introduction.* On these arrangements it need only be observed, that a measure, which sets out with professing to relieve the nabob from a state of *perpetual pupilage*, concludes with delivering not only his fortune but his person to the custody of a particular friend to Mr. Hastings.

The instructions given to the nabob contain other passages, that merit attention. In one place Mr. Hastings tells him, "you have offered to give up the sum of four lacks of rupees to be allowed the free use of the remainder; but this we have refused." In another he says, that, "*as many matters will occur which cannot be so easily explained by letter as by conversation*, I desire that you will, on such occasions, give your orders to Sir John D'Oyly, respecting such points as you may desire to have imparted to *me*." The offer alluded to in the first passage does not appear in the nabob's letters; therefore, must have been in conversation, and declined by Mr. Hastings without consulting his colleague. A refusal of it might have been proper; but it supposes a degree of incapacity in the nabob, not to be reconciled to the principles, on which Mahomed Reza Khân was removed from the management of his affairs.

Of the matters alluded to in the second, and which, it is said, *could not be so easily explained by letters as in conversation*, no explanation is given. Your committee will therefore leave them, as Mr. Hastings has done, to the opinion of the house.

As soon as the nabob's requisition was communicated to the board, it was moved and resolved, that Mahomed Reza Khân should be divested of his office; and the house have seen in what manner it was disposed of. The nabob had stated various complaints against him:—that he had dismissed the old established servants of the Nizamut, and filled their places with his own dependants:—that he had *regularly received* the stipend of the Nizamut from the company, yet had kept the nabob involved in debt and distress, and exposed to the clamours of his creditors; and sometimes even in want of a dinner. All these complaints were recorded at large in the proceedings of the council; but it does not appear that they were even communicated to Mahomed Reza Khân, or that he was ever called upon, in any shape, to answer them. This circumstance inclines your committee to believe, that all of these charges were groundless; especially as it appears on the face of the proceedings, that the chief of them were not well founded. Mr. Hastings, in his letter to Mr. Wheler, urges the necessity of the monthly payment of the nabob's stipend *being regularly made;* and says, that, to relieve the nabob's present wants, he had directed the resident to raise an immediate supply

on the credit of the company, to be repaid from first receipts. From hence your committee conclude the monthly payments had *not* been regularly made; and that whatever distresses the nabob might have suffered must have been owing to the governour-general and council, not to Mahomed Reza Khân; who, for ought that appears to the contrary, paid away the stipend as fast as he received it. Had it been otherwise, that is, if Mahomed Reza Khân had reserved a balance of the nabob's money in his hands, he should, and undoubtedly he would, have been called upon to pay it in; and then there would have been no necessity for raising an immediate supply by other means.

The transaction, on the whole, speaks very sufficiently for itself. It is a gross instance of repeated disobedience to repeated orders; and it is rendered particularly offensive to the authority of the court of directors by the frivolous and contradictory reasons assigned for it. But, whether the nabob's requisition was reasonable or not, the governour-general and council were precluded by a special instruction from complying with it. The directors, in their letter of the 14th of February, 1779, declare, that a resolution of council (taken by Mr. Francis and Mr. Wheler, in the absence of Mr. Barwell) viz. "that the nabob's letter should be referred to *them* for *their* decision; and that no resolution should be taken in Bengal, on his requisitions, without their special orders and instructions," was very proper. They prudently reserved to themselves the right of deciding on such questions; but they reserved it to no purpose. In England the authority is purely formal. In Bengal the power is positive and real. When they clash, their opposition serves only to degrade the authority that ought to predominate, and to exalt the power that ought to be dependent.

Since the closing of the above report, many material papers have arrived from India, and have been laid before your committee: that which they think it most immediately necessary to annex to the appendix to this report, is the resolution of the council-general to allow to the members of the board of trade, resident at Calcutta, a charge of five per cent. on the sale in England of the investment formed upon their second plan, namely, that plan which had been communicated to Lord Macartney. The investment on this plan is stated to be raised from 800,000*l.* to 1,000,000*l.* sterling.

It is on all accounts a very memorable transaction, and tends to bring on a heavy burden, operating in the nature of a tax, laid by their own authority on the goods of their masters in England. If such a compensation to the board of trade was necessary, on account of their engagement to take no further (that is to say, no unlawful) emolument, it implies, that the practice of making such unlawful emolument had formerly existed; and your committee think it very extraordinary, that the first notice the company had received of such a practice should be, in taxing them for a compensation for a partial abolition of it, secured on the parole of honour of these very persons who are supposed to have been guilty of this unjustifiable conduct. Your committee consider this engagement, if kept, as only a partial abolition of the implied corrupt practice, because no part of the compensation is given to the members of the board of trade, who reside at the several factories, though their means of abuse are without all comparison greater; and if the corruption was supposed so extensive as to be bought off at that price where the means were fewer, the house will judge how far the tax has purchased off the evil.

ELEVENTH REPORT

FROM THE SELECT COMMITTEE APPOINTED TO TAKE INTO CONSIDERATION THE STATE OF THE ADMINISTRATION OF JUSTICE IN THE PROVINCES OF BENGAL, BAHAR, AND ORISSA, AND TO REPORT THE SAME, AS IT SHALL APPEAR TO THEM, TO THE HOUSE, WITH THEIR OBSERVATIONS THEREUPON; AND WHO WERE INSTRUCTED TO CONSIDER HOW THE BRITISH POSSESSIONS IN THE EAST-INDIES MAY BE HELD AND GOVERNED WITH THE GREATEST SECURITY AND ADVANTAGE TO THIS COUNTRY, AND BY WHAT MEANS THE HAPPINESS OF THE NATIVE INHABITANTS MAY BE BEST PROMOTED.—(1783.)

YOUR committee, in the course of their inquiry into the obedience yielded by the company'servants to the orders of the court of directors, (the authority of which orders had been strengthened by the regulating act of 1773,) could not overlook one of the most essential objects of that act, and of those orders, namely, the taking of *gifts and presents*. These pretended free gifts from the natives to the company's servants in power had never been authorized by law; they are contrary to the covenants formally entered into by the president and council; they are strictly forbidden by the act of parliament; and forbidden upon grounds of the most substantial policy.

Before the regulating act of 1773, the allowances made by the company to the presidents of Bengal, were abundantly sufficient to guarantee them against any thing like a necessity for giving in to that pernicious practice. The act of parliament which appointed a governour-general in the place of a president, and it was extremely particular in enforcing the prohibition of those presents, so it was equally careful in making an ample provision for supporting the dignity of the office, in order to remove all excuses for a corrupt increase of its emoluments.

Although evidence on record, as well as verbal testimony, has appeared before your committee, of presents to a large amount having been received by Mr. Hastings and others, before the year 1775, they were not able to find distinct traces of that practice in him, or any one else, for a few years.

The inquiry set on foot in Bengal, by order of the court of directors, in 1775, with regard to all corrupt practices, and the vigour with which they were for some time pursued, might have given a temporary check to the receipt of presents, or might have produced a more effectual concealment of them; and afterwards the calamities which befell almost all who were concerned in the first discoveries, did probably prevent any further complaint upon the subject; but towards the close of the last session, your committee have received much of new and alarming information concerning that abuse.

The first traces appeared, though faintly and obscurely, in a letter to the court of directors from the governour-general, Mr. Hastings, written on the 29th of November, 1780.* It has been stated in a former report of your committee, that on the 26th of June, 1780, Mr. Hastings, being very earnest in the prosecution of a particular operation in the Mahratta war, in order to remove objections to that measure, which were made on account of the expense of the contingencies, offered to *exonerate* the company from that "charge." Continuing his minute of council, he says: "That sum (a sum of about 23,000*l.*) I have already deposited, within a small amount, in the hands of the sub-treasurers, and I *beg* that the board will *permit* it to be accepted for that service." Here he offers in his own person; he deposits, or pretends that he deposits, in his own person; and, with the zeal of a man eager to pledge his private fortune in support of his measures, he prays that his offer may be accepted. Not the least hint that he was delivering back to the company money of their own, which he had secreted from them. Indeed, no man ever made it a request, much less earnestly entreated, "begged to be permitted," to pay any persons, public or private, money that was their own.

It appeared to your committee, that the money offered for that service, which was to forward the operations of a detachment under Colonel Camac, in an expedition against one of the Mahratta chiefs, was not accepted. And your committee having directed search

* Appendix, B. No. 1. Vide supplement to the 2d report, page 7.

to be made for any sums of money paid into the treasury by Mr. Hastings for this service, found, that notwithstanding his assertion of having deposited "two lacks of rupees, or within a trifle of that sum, in the hands of the sub-treasurer," no entry whatsoever of that or any other payment by the governour-general, was made in the treasury accounts, at or about that time.* This circumstance appeared very striking to your committee, as the non-appearance in the company's books of the article in question must be owing to one or other of these four causes: that the assertion of Mr. Hastings, of his having paid in near two lacks of rupees at that time, was not true; or that the sub-treasurer may receive great sums in deposit without entering them in the company's treasury accounts; or that the treasury books themselves are records not to be depended on; or, lastly, that faithful copies of these books of accounts are not transmitted to Europe. The defect of an entry, corresponding with Mr. Hastings's declaration in council, can be attributed only to one of these four causes; of which the want of foundation in his recorded assertion, though very blameable, is the least alarming.

On the 29th of November following, Mr. Hastings communicated to the court of directors some sort of notice of this transaction.† In his letter of that date he varies, in no small degree, the aspect, under which the business appeared in his minute of consultation of the 26th of June. In his letter he says to the directors, "the subject is now become obsolete; the fair hopes, which I had built upon the prosecution of the Mahratta war have been blasted by the dreadful calamities which have befallen your presidency of fort St. George; and changed the object of our pursuit, from the *aggrandizement* of your power to its preservation." After thus confessing, or rather boasting of his motives to the Mahratta war, he proceeds: "My present reason for reverting to my own conduct on the occasion which I have mentioned" (namely, his offering a sum of money for the company's service) "is to obviate *the false conclusions, or purposed misrepresentations*, which may be made of it, either as an artifice *of ostentation*, or the effect of *corrupt influence*, by assuring you that the money, *by whatever means it came into my possession, was not my own*; that I had myself *no right* to it, nor would or could have received it but for the occasion, which prompted me to avail myself *of the accidental means*, which were at that instant afforded me, of accepting and converting it to the property and use of the company; and with this brief apology I shall dismiss the subject."

The apology is brief indeed, considering the nature of the transaction; and, what is more material than its length or its shortness, it is in all points unsatisfactory. The matter becomes, if possible, more obscure by his explanation. Here was money received by Mr. Hastings, which, according to his own judgment, he had no right to receive; it was money, which "(but for the occasion which prompted him) he could not have accepted;" it was money which came into his, and from his into the company's hands, by ways and means undescribed, and from persons unnamed; yet, though apprehensive of false conclusions, and purposed misrepresentations, he gives his employers no insight whatsoever into a matter, which of all others, stood in the greatest need of a full and clear elucidation.

Although he chooses to omit this essential point, he expresses the most anxious solicitude to clear himself of the charges that might be made against him, of the artifices of ostentation, and of corrupt influence. To discover, if possible, the ground for apprehending such imputations, your committee adverted to the circumstances in which he stood at the time:—they found that this letter was despatched about the time that Mr. Francis took his passage for England; his fear of misrepresentation may therefore allude to something which passed in conversation between him and that gentleman at the time the offer was made.

It was not easy, on the mere face of his offer, to give an ill turn to it. The act, as it stands on the minute, is not only disinterested, but generous, and public spirited. If Mr. Hastings apprehended misrepresentation from Mr. Francis, or from any other person, your committee conceive that he did not employ proper means for defeating the ill designs of his adversaries. On the contrary, the course he has taken, in his letter to the court of directors, is calculated to excite doubts and suspicions in minds the most favourably disposed to him. Some degree of ostentation is not extremely blameable, at a time when a man advances largely from his private fortune towards the public service. It is human infirmity at the worst, and only detracts something from the lustre of an action in itself

* Appendix, B. No. 2.
† Vide appendix, B. No. 1.

meritorious. The kind of ostentation which is criminal, and criminal only because it is fraudulent, is where a person makes a show of giving, when in reality he does not give. This imposition is criminal more or less according to the circumstances. But if the money, received to furnish such a pretended gift, is taken from any third person, without right to take it, a new guilt, and a guilt of a much worse quality and description, is incurred. The governour-general, in order to keep clear of ostentation, on the 29th of November, 1780, declares that the sum of money which he offered on the 26th of the preceding June, as his own, was not his own, and that he had no right to it. Clearing himself of vanity, he convicts himself of deceit, and of injustice. The other object of this brief apology was to clear himself of *corrupt influence*. Of all ostentation he stands completely acquitted in the month of November, however he might have been faulty in that respect in the month of June: but, with regard to the other part of the apprehended charge, namely, *corrupt influence*, he gives no satisfactory solution—a great sum of money, "not his own"—money, to which "he had no right"—money, which came into his possession, "by whatever means:"—if this be not money obtained by corrupt influence, or by something worse, that is, by violence or terrour, it will be difficult to fix upon circumstances which can furnish a presumption of unjustifiable use of power and influence in the acquisition of profit. The last part of the apology—that he had converted this money ("which he had no right to receive") to the company's use (so far as your committee can discover) *does no where appear*. He speaks, in the minute of the 26th of June, as having *then* actually deposited it for the company's service. In the letter of November, he says, that he converted it to the company's property: but there is no trace, in the company's books, of its being ever brought to their credit in the expenditure for any specific service, even if any such entry and expenditure could justify him in taking money, which he had, by his own confession, "no right to receive."

The directors appear to have been deceived by this representation; and in their letter of January, 1782, consider the money as actually paid into their treasury.* Even under their errour concerning the application of the money, they appear rather alarmed than satisfied with the brief apology of the governour-general. They consider the whole proceeding as *extraordinary and mysterious*. They, however, do not condemn it with any remarkable asperity; after admitting that he might be induced to a temporary secrecy, *respecting the members of the board*, from a fear of their resisting the proposed application, or any application of this money to the company's use; yet they write to the governour-general and council as follows:—"It does not appear to us, that there could be any real necessity for delaying to commmunicate to *us* immediate information of the *channel* by which the money came into Mr. Hastings's possession, with a complete illustration of the cause or causes of so *extraordinary* an event." And again: "the means proposed of defraying the extra expenses are very extraordinary; and the money, we conceive, must have come into his hands by an *unusual* channel; and when more complete information comes before us, we shall give our sentiments fully on the transaction." And, speaking of this and other moneys under a similar description, they say, "we shall suspend our judgment, without approving it in the least degree, or proceeding to censure our governour-general for this transaction." The expectations entertained by the directors of a more complete explanation, were natural, and their expression tender and temperate. But the more complete information, which they naturally expected, they never have to this day received.

Mr. Hastings wrote two more letters to the secret committee of the court of directors, in which he mentions this transaction.* The first, dated (as he asserts, and a Mr. Larkins swears) on the 22d of May, 1782; the last, which accompanied it, so late as the 16th of December, in the same year. Though so long an interval lay between the transaction of the 26th of June, 1780, and the middle of December, 1782,† (upwards of two years) no further satisfaction is given. He has written, since the receipt of the above letter of the court of directors (which demanded, what they had a right to demand, a clear explanation of the particulars of this sum of money, which he had no right to receive) without giving them any further satisfaction. Instead of explanation or apology, he assumes a tone of complaint and reproach to the directors.—He lays before them a kind of an account of presents received to the amount of upwards of 200,000*l.* some at a considerable distance of

* Appendix, B. No. 7.

* Appendix, B. No. 3, and No. 5.
† Appendix, B. No. 6.

time, and which had not been hitherto communicated to the company.

In the letter which accompanied that very extraordinary account, which then for the first time appeared, he discovers no small solicitude to clear himself from the imputation of having these discoveries drawn from him by the terrours of the parliamentary inquiries then on foot. To remove all suspicion of such a motive for making these discoveries, Mr. Larkins swears, in an affidavit made before Mr. Justice Hyde, bearing even date with the letter which accompanies the account, that is, of the 16th of December, 1782, that this letter had been written by him on the 22d of May, several months before it was despatched. It appears that Mr. Larkins,* who makes this voluntary affidavit, is neither secretary to the board, nor Mr. Hastings' private secretary, but an officer of the treasury of Bengal.

Mr. Hastings was conscious that a question would inevitably arise, how he came to delay the sending intelligence of so very interesting a nature, from May to December? He therefore thinks it necessary to account for so suspicious a circumstance. He tells the directors "that the despatch of the Lively having been protracted from time to time, the accompanying address, which was originally designed and prepared for that despatch, *and no other since occurring*, has, of course, been thus long delayed."

The governour-general's letter is dated the 22d May, and the Resolution was the last ship of the season despatched for Europe. The public letters to the directors are dated the 9th May; but it appears, by the letter of the commander of the ship, that he did not receive his despatches from Mr. Loyd, then at Kedjeree, until the 26th May; and also, that the pilot was not discharged from the ship until the 11th of June. Some of these presents (now for the first time acknowledged) had been received eighteen months preceding the date of his letter; none less than four months; so that, in fact, he might have sent this account by all the ships of that season; but the governour-general choose to write this letter thirteen days after the determination in council for the despatch of the last ship.

It does not appear that he has given any communication whatsoever to his colleagues in office of those extraordinary transactions. Nothing appears on the records of the council of the receipt of the presents; nor is the transmission of this account mentioned in the general letter to the court of directors, but in a letter from himself to their secret committee, consisting generally of two persons, but at most of three. It is to be observed that the governour-general states, "that the despatch of the Lively had been protracted from time to time; that this delay was of no public consequence; but that it produced a situation, which, with respect to himself, he regarded as unfortunate, because it exposed him to the meanest imputations, from the occasion which the late parliamentary inquiries have since furnished; but which were unknown when his letter was written." If the governour-general thought his silence exposed him to the *meanest imputations*, he had the means in his own power of avoiding those imputations; he might have sent this letter, dated the 22d May, by the Resolution. For we find, that in a letter from Captain Poynting, of the 26th May, he states it not possible for him to proceed to sea with the smallest degree of safety without a supply of anchors and cables; and most earnestly requests they may be supplied from Calcutta; and on the 28th May, we find a minute from the secretary of the council, Mr. Auriol, requesting an order of council to the master-attendant to furnish a sloop to carry down those cables; which order was accordingly issued on the 30th May. There requires no other proof to show that the governour-general had the means of sending this letter seven days after he wrote it, instead of delaying it for near seven months; and because no conveyance had offered. Your committee must also remark, that the conveyance by land to Madras was certain; and, whilst such important operations were carrying on both by sea and land upon the coast, that despatches would be sent to the admiralty, or to the company, was highly probable.

If the letter of the 22d May had been found in the list of the packets sent by the Resolution, the governour-general would have established, in a satisfactory manner, and far beyond the effect of any affidavit, that the letter had been written at the time of the date. It appears that the Resolution, being on her voyage to England, met with so severe a gale of wind as to be obliged to put back to Bengal, and to unload her cargo. This event makes no difference in the state of the transaction. Whatever the cause of these new discoveries might have been, at the time of sending them, the fact of the parliamentary inquiry was publicly known.

In the letter of the above date Mr. Hastings

* Vide Larkin's Affidavit, appendix, B. No. 5.

laments the mortification of being reduced to take precautions "to guard his reputation from dishonour."—"If I had (says he) *at any time* possessed that degree of confidence from my *immediate* employers, which they have never withheld from the *meanest* of my predecessours, I should have disdained to use these attentions."

Who the *meanest* of Mr. Hastings's predecessours were, does not appear to your committee: nor are they able to discern the ground of propriety or decency for his assuming to himself a right to call any of them mean persons. But if such mean persons have possessed that degree of confidence from his immediate employers, which for so many years he had not possessed "*at any time*," inferences must have been drawn from thence very unfavourable to one or the other of the parties, or perhaps to both. The attentions, which he practises and disdains, can in this case be of no service to himself, his employers, or the public; the only attention at all effectual towards extenuating, or in some degree atoning for, the guilt of having taken money from individuals illegally, was, to be full and fair in his confession of all the particulars of his offence. This might not obtain that confidence, which at no time he has enjoyed; but still the company and the nation might derive essential benefit from it; the directors might be able to afford redress to the sufferers; and by his laying open the concealed channels of abuse, means might be furnished for the better discovery, and possibly for the prevention, or at least for the restraint, of a practice of the most dangerous nature; a practice, of which the mere prohibition, without the means of detection, must ever prove, as hitherto it had proved, altogether frivolous.

Your committee, considering that so long a time had elapsed without any of that information which the directors expected, and perceiving that this receipt of sums of money, under colour of gift, seemed a growing evil, ordered the attendance of Mr. Hastings's agent, Major Scott. They had found, on former occasions, that this gentleman was furnished with much more early and more complete intelligence of the company's affairs in India than was thought proper for the court of directors; they, therefore, examined him concerning every particular sum of money, the receipt of which Mr. Hastings had confessed in his account. It was to their surprise that Mr. Scott professed himself perfectly uninstructed upon almost every part of the subject, though the express object of his mission to England was to clear up such matters as might be objected to Mr. Hastings; and for that purpose he had early qualified himself by the production to your committee of his powers of agency. The ignorance in which Mr. Hastings had left his agent, was the more striking, because he must have been morally certain, that, if his conduct in these points should have escaped animadversion from the court of directors, it must become an object of parliamentary inquiry; for, in his letter of the 15th December, 1782, to the court of directors, he expressly mentions his fears, that those parliamentary inquiries might be thought to have extorted from him the confessions which he had made.

Your committee, however, entering on a more strict examination concerning the two lacks of rupees, which Mr. Hastings declares he had no right to take, but had taken, from some person then unknown, Major Scott recollected that Mr. Hastings had, in a letter of the 7th December, 1782, (in which he refers to some former letter) acquainted him with the name of the person, from whom he had received those two lacks of rupees, mentioned in the minute of June, 1780. It turned out to be the rajah of Benares, the unfortunate Cheyt Sing.

In the single instance in which Mr. Scott seemed to possess intelligence in this matter, he is preferred to the court of directors. Under their censure as Mr. Hastings was, and as he felt himself to be, for not informing them of the channel in which he received that money, he perseveres obstinately and contemptuously to conceal it from them; though he thought fit to entrust his agent with the secret.

Your committee were extremely struck with this intelligence. They were totally unacquainted with it, when they presented to the house the supplement to their second report on the affairs of Cheyt Sing. A gift received by Mr. Hastings from the rajah of Benares gave rise, in their minds, to serious reflections on the condition of the princes of India subjected to the British authority. Mr. Hastings was, at the very time of receiving this gift, in the course of making, on the rajah of Benares, a series of demands, unfounded and unjustifiable, and constantly growing, in proportion as they were submitted to. To these demands the rajah of Benares, besides his objections in point of right, constantly set up a plea of poverty. Presents from persons who hold up poverty as a shield against extortion can scarcely, in any case, be considered

as gratuitous, whether the plea of poverty be true or false. In this case, the presents might have been bestowed, if not with an assurance, at least with a rational hope of some mitigation in the oppressive requisitions that were made by Mr. Hastings; for, to give much voluntarily, when it is known that much will be taken away forcibly, is a thing absurd and impossible. On the other hand, the acceptance of that gift by Mr. Hastings must have pledged a tacit faith for some degree of indulgence towards the donor: if it was a free gift, gratitude; if it was a bargain, justice obliged him to it. If, on the other hand, Mr. Hastings originally destined (as he says he did) this money, given to himself secretly, and for his private emolument, to the use of the company, to the company's favour, to whom he acted as trustee, ought to have been purchased by it. In honour and justice he bound and pledged himself for that power, which was to profit by the gift, and to profit too in the success of an expedition, which Mr. Hastings thought so necessary to their aggrandizement. The unhappy man found his money accepted, but no favour acquired on the part either of the company or of Mr. Hastings.

Your committee have, in another report, stated to the house, that Mr. Hastings attributed the extremity of distress, which the detachments under Colonel Camac had suffered, and the great desertions which ensued on that expedition, to the want of punctuality of the rajah in making payment of one of the sums which had been extorted from him; and this want of punctual payment was afterwards assigned as a principal reason for the ruin of this prince. Your committee have shown to the house, by a comparison of facts and dates, that this charge is wholly without foundation. But if the cause of Colonel Camac's failure had been true as to the sum, which was the object of the public demand, the failure could not be attributed to the rajah, when he had on the *instant* privately furnished, at least 23,000*l.* to Mr. Hastings; that is, furnished the identical money which he tells us (but carefully concealing the name of the giver) he had from the beginning destined, as he afterwards publicly offered, for this very expedition of Colonel Camac's. The complication of fraud and cruelty in the transaction admits of few parallels. Mr. Hastings, at the council board of Bengal, displays himself as a zealous servant of the company, bountifully giving from his own fortune; and in his letter to the directors (as he says himself)* as going out of the ordinary roads for their advantage; and all this on the credit of supplies, derived from the gift of a man whom he treats with the utmost severity, and whom he accuses, in this particular, of disaffection to the company's cause and interests.

With 23,000*l.* of the rajah's money in his pocket, he persecutes him to his destruction; assigning for a reason, that his reliance on the rajah's faith, and his breach of it, were the principal causes that *no other* provision was made for the detachment, on the specific expedition to which the rajah's specific money was to be applied; the rajah had given it to be disposed of by Mr. Hastings; and if it was not disposed of in the best manner for the accomplishing his objects, the accuser himself is the criminal.

To take money for the forbearance of a just demand would have been corrupt only: but to urge unjust public demands; to accept private pecuniary favours in the course of those demands; and, on the pretence of delay or refusal, without mercy to persecute a benefactor; to refuse to hear his remonstrances; to arrest him in his capital, in his palace, in the face of all the people;—thus to give occasion to an insurrection, and, on pretext of that insurrection, to refuse all treaty or explanation: to drive him from his government and his country; to proscribe him in a general amnesty; and to send him all over India, a fugitive, to publish the shame of British government in all the nations to whom he successively fled for refuge: these are proceedings to which, for the honour of human nature, it is hoped few parallels are to be found in history; and in which the illegality and corruption of the acts form the smallest part of the mischief.

Such is the account of the first sum *confessed* to be taken as a present by Mr. Hastings, since the year 1775; and such are its consequences. Mr. Hastings apologizes for this action by declaring, "that he would not have received the money but for the *occasion*, which prompted him to avail himself of the accidental means which were at that instant afforded him, of accepting and converting it to the use of the company."* By this account he considers the act as excusable only by the particular occasion, by the temptation of accidental means, and by the suggestion of the *instant*. How far this is the case, appears by the very next paragraph of this letter, in which the account is given, and in which the apology is made. If these were his opinions

* Vide app. B. No. 1.

* Vide app. B. No. 1.

in June, 1780, they lasted but a very short time: his accidental means appear to be growing habitual.

To point out in a clear manner, the spirit of the second money transaction to which your committee adverted, which is represented by Mr. Hastings as having some "affinity with the former *anecdote*,"* (for in this light kind of phrase he chooses to express himself to his masters) your committee think it necessary to state to the house, that the business, namely, this business, which was the second object of their inquiry, appears in three different papers, and in three different lights; on comparing these authorities, in every one of which Mr. Hastings is himself the voucher, if one of the three be true, the other two must necessarily be false.

These three authorities,† which your committee has accurately compared, are, first, his minutes on the consultations; secondly, his letter to the court of directors, on the 29th of November, 1780; thirdly, his account, transmitted on the 16th of December, 1782.

About eight months after the first transaction‡ relative to Cheyt Sing, and which is just reported, that is, on the fifth of January, 1781, Mr. Hastings produced a demand to the council for money of his own, expended for the company's service.

Here was no occasion for secrecy. Mr. Francis was on his passage to Europe; Mr. Wheler was alone left, who no longer dissented from any thing; Mr. Hastings was in effect himself the whole council. He declared, that *he* had disbursed three lacks of rupees, that is, thirty-four thousand five hundred pounds, in secret services; which having (he says) "been advanced from *my own private cash*, I request that the same may be repaid to me in the following manner:"—He accordingly desires three bonds, for a lack of sicca rupees each, to be given to him in two of the company's subscriptions; one to bear interest on the eight per cent. loan, the other two in the four per cent. The bonds were antedated to the beginning of the preceding October.

On the 9th of the same month,* that is, on the 9th of January, 1781, the three bonds were accordingly ordered: so far the whole transaction appears clear, and of a piece. Private money is subscribed, and a public security is taken for it. When the company's treasury accounts are compared with the proceedings of their council-general, a perfect correspondence also appears.* The three bonds are then entered to Mr. Hastings, and he is credited for principal and interest on them, in the exact terms of the order. So far the official accounts; which, because of their perfect harmony, are considered as clear and consistent evidence to one body of fact.

The second sort of document† relative to these bonds (though the first in order of time) is Mr. Hastings's letter of the 29th of November, 1780. It is written between the time of the expenditure of the money for the company's use, and the taking of the bonds. Here, for the first time, a very material difference appears; and the difference is the more striking, because Mr. Hastings claimed the *whole* money as his own, and took bonds for it as such, *after* this representation. The letter to the company discovers, that part of the money (the whole of which he had declared on record to be his own, and for which he had taken bonds) was not his, but the property of his masters, from whom he had taken the security. It is no less remarkable, that the letter, which represents the money as belonging to the company, was written about six weeks before the minute of council, in which he claims that money as his own. It is this letter on which your committee is to remark.

Mr. Hastings, after giving his reasons‡ for the application of the three lacks of rupees, and for his having for some time concealed the fact, says, "two-thirds of that sum I have raised *by my own credit*, and shall charge it in my official account; *the other third* I have supplied from the cash in my hand, belonging to the honourable company."

The house will observe, that in November, he tells the directors, that he shall charge only *two-thirds* in his official accounts: in the following January he charges the *whole*.§ For the other third (although he admitted that to belong to the company) we have seen that he takes a bond to *himself*.

It is material that he tells the company, in his letter, that these two lacks of rupees were *raised on his credit*. His letter to the council says, that they were advanced from his private *cash*. What he raises on his credit, may, on a fair construction, be considered as his own: but in this too he fails; for it is certain

* Vide app. B. No. 1.
† App. B. No. 8. App. B. No. 1. App. B. No. 4.
‡ App. B. No. 8.
§ Appendix B. No. 8

* Appendix B. No. 9.
† Appendix B. No. 1.
‡ Vide appendix B. No. 1.
§ Vide appendix B. No. 8.

he has never transferred these bonds to any creditor; nor has he stated any sum he has paid, or for which he stands indebted, on that account, to any specific person. Indeed, it was out of his power; for the first two-thirds of the money, which he formerly stated as raised upon his own credit, he now confesses to have been from the beginning the company's property; and therefore could not have been raised on his private credit, or borrowed from any person whatsoever.

To these two accounts,* thus essentially varying, he has added a third, varying at least as essentially from both. In his last, or third account, which is a statement of all the sums he has received in an extraordinary manner, and confessed to be the company's property, he reverses the items of his first account; and, instead of allowing the company but one-third, and claiming two-thirds for himself, he enters two of the bonds,† each for a lack of rupees, as belonging to the company; of the third bond, which appears so distinctly in the consultations, and in the treasury accounts, not one word is said; ten thousand pounds is absorbed, sinks, and disappears at once; and no explanation whatever concerning it is given. Mr. Hastings seems not yet to have decided to whose account it ought to be placed. In this manner his debt to the company, or the company to him, is just what he thinks fit.—In a single article he has varied three times. In one account he states the whole to be his own; in another he claims two-thirds; in the last he gives up the claim of the two-thirds, and says nothing of the remaining portion.

To make amends, however, for the suppression of this third bond, given with the two others in January, 1781, and antedated to the beginning of October, Mr. Hastings, in the above-mentioned general account,‡ subjoined to his letter of the 22d May, 1782, has brought to the company's credit a new bond.

This bond is for 17,000*l.* It was taken from the company (and so it appears on the treasury accounts) on the 23d of November, 1780. He took no notice of this when, in January following, he called upon his own council for the three others. What is more extraordinary, he was equally silent with regard to it, when, only six days after its date, he wrote concerning the subject of the three other bonds to the court of directors: yet now it comes out, that that bond also was taken by Mr. Hastings from the company for money, which he declares he had received on the company's account; and that he entered himself as creditor, when he ought to have made himself debtor.

Your committee examined Major Scott concerning this money, which Mr. Hastings must have obtained in some clandestine and irregular mode; but they could obtain no information of the persons from whom it was taken, nor of the occasion or pretence for taking this large sum; nor does any order of council appear for its application to any soever it was) relative to this bond is covered vice. The whole of the transaction (whatwith the thickest obscurity.

Mr. Hastings,* to palliate the blame of his conduct, declares that he has not received any interest on these bonds; and that he has endorsed them as not belonging to himself, but to the company. As to the first part of this allegation, whether he received the interest, or let it remain in arrear, is a matter of indifference, as he entitled himself to it; and, so far as the legal security he has taken goes, he may, whenever he pleases, dispose both of principal and interest. What he has endorsed on the bonds, or when he made the endorsement, or whether in fact he has made it at all, are matters known only to himself; for the bonds must be in his possession, and are no where by him stated to be given up or cancelled; which is a thing very remarkable, when he confesses that he had no right to receive them.

These bonds make but a part of the account† of private receipts of money by Mr. Hastings, formerly paid into the treasury as his own property, and now allowed not to be so. This account brings into view other very remarkable matters of a similar nature and description.

In the public records,‡ a sum of not less than 23,871*l.* is set to his credit as a *deposit* for his private account, paid in by him into the treasury in gold, and coined at the company's mint. This appears, in the account furnished to the directors, under the date of May, 1782,§ not to be lawfully his money, and he therefore transfers it to the company's credit: it still remains as a deposit.

* Appendix. B. No. 4. The gov. general's account of moneys received, dated 22d May, 1782.
† Also appendix B. No. 9. The auditor's account of bonds granted to the gov. general.
‡ Vide appendix B. No. 4.

* Vide Mr. Hastings's, account in appendix B. No. 4.
† Vide Mr. Hastings's account, dated 22d May, 1782, in appendix B. No. 4.
‡ Vide above appendix, and B. No. 2.
§ Vide appendix B. No. 4.

That the house may be apprized of the nature of this article of deposit, it may not be improper to state, that the company receive into their treasury the cash of private persons, placed there as in a bank. On this no interest is paid, and the party depositing has a right to receive it upon demand. Under this head of account, no public money is ever entered. Mr. Hastings, neither at making the deposit as his own, nor at the time of his disclosure of the real proprietor, (which he makes to be the company,) has given any information of the persons from whom this money had been received. Mr. Scott was applied to by your committee, but could not give any more satisfaction in this particular than in those relative to the bonds.

The title of the account of the 22d May purports not only that those sums were paid into the company's treasury by Mr. Hastings's order, but that they were applied to the company's service. No service is specified, directly or by any reference, to which this great sum of money has been applied.

Two extraordinary articles follow this, in the May account,* amounting to about 29,000*l.* These articles are called receipts of Durbar charges. The general head for Durbar charges, made by persons in office when analyzed into the particulars, contains various expenses, including bounties and presents made by government, chiefly in the foreign department: but in the last account he confesses that this sum also is not his, but the company's property: but, as in all the rest, so in this, he carefully conceals the means by which he acquired the money, the time of his taking it, and the persons from whom it was taken. This is the more extraordinary, because, in looking over the journals and ledgers of the treasury, the presents received and carried to the account of the company (which were generally small and complimental) were precisely entered, with the name of the giver.

Your committee, on turning to the account of Durbar charges, in the ledger of that month, find the sum, as stated in the account of May 22d, to be indeed paid in; but there is no specific application whatsoever entered.

The account of the whole money thus clandestinely received, as stated on the 22d of May, 1782 (and for a great part of which, Mr. Hastings to that time took credit for, and for the rest has accounted in an extraordinary manner as his own) amounts, in the whole, to upwards of ninety-three thousand pounds sterling;—a vast sum to be so obtained, and so loosely accounted for!—If the money taken from the rajah of Benares be added (as it ought) it will raise the sum to upwards of 116,000*l.* If the 11,600*l.* bond in October be added, it will be upwards of 128,000*l.* received in a secret manner by Mr. Hastings, in about one year and five months. To all these he adds another sum of one hundred thousand pounds, received as a present from the soubah of Oude. Total, upwards of 228,000*l.*

Your committee find, that this last is the only sum the giver of which Mr. Hastings has thought proper to declare. It is to be observed, that he did not receive this 100,000*l.* in money, but in bills on a great native money dealer, resident at Benares, and who has also an house at Calcutta; he is called Gopâl Dâs. The negotiation of these bills tended to make a discovery not so difficult as it would have been in other cases. With regard to the application of this last sum of money, which is said to be carried to the Durbar charges of April, 1782, your committee are not enabled to make any observations on it, as the account of that period has not yet arrived.

Your committee have, in another report, remarked fully upon most of the circumstances of this extraordinary transaction. Here they only bring so much of these circumstances again into view as may serve to throw light upon the true nature of the sums of money taken by British subjects in power, under the name of *presents;* and to show how far they are entitled to that description in and sense, which can fairly imply, in the pretended donors, either willingness or ability to give. The condition of the bountiful parties, who are not yet discovered, may be conjectured from the state of those who have been made known; as far as that state any where appears, their generosity is found in proportion, not to the opulence they possess, or to the favours they receive, but to the indigence they feel, and the insults they are exposed to. The house will particularly attend to the situation of the principal giver, the soubah of Oude.

"When the knife (says he) had penetrated to the bone, and I was surrounded with heavy distresses, that I could no longer live in expectations, I wrote you an account of my difficulties.

"The answer which I have received to it, is such, that it has given me inexpressible grief and affliction. I never had the least idea or expectation from you and the council, that you would ever have given your orders

* Vide appendix B. No. 4.

in so afflicting a manner, in which you never before wrote, and which I could not have imagined. As I am resolved to *obey* your orders, and directions of the council, without any delay, as long as I live, I have, agreeably to those *orders*, delivered up *all my private papers* to him (the resident), that when he shall have examined my receipts and expenses, *he may take whatever remains*. As I know it to be my duty to satisfy you, the company and council, I have not failed to *obey* in any instance; but requested of him that it might be done so as not to *distress me in my necessary expenses*; there being no other funds but those for the expenses of my mutseddies, household expenses, and servants, &c. He demanded these in such a manner, that, being *remediless*, I was obliged to comply with what he required. He has accordingly *stopped the pensions of my old servants for thirty years, whether sepoys, mutseddies, or household servants, and the expenses of my family and kitchen, together with the jaghires of my grandmother, mother and aunts, and of my brothers and dependants, which were for their support*. I had raised 1,300 horse, and three battalions of sepoys, to attend upon me; but as I have no resources to support them, I have been obliged to remove the people stationed in the mahals, [districts] and to send his people [the resident's people] into the mahals; so that I have not now one single servant about me.—Should I mention to what further difficulties I have been reduced, it would lay me open to contempt."

In other parts of this long remonstance, as well as in other remonstrances no less serious, he says, "that it is difficult for him to save himself alive; that in all his affairs *Mr. Hastings had given full powers to the gentlemen here*, (meaning the English resident and assistants) *who have done whatever they chose, and still continue to do it*. I never expected that *you* would have brought me into such apprehension, and into so weak a state, without *writing to me on any one of those subjects*, since I have not the smallest connection with any body, except yourself. I am in such distress, both day and night, that I see not the smallest prospect of deliverance from it since you are so displeased with me *as not to honour me with a single letter*."

In another remonstrance he thus expresses himself:

'The affairs of this world are unstable, and soon pass away; it would therefore be incumbent on the *English* gentlemen to show *some* friendship for me in my *necessities*. I, who have always exerted my very life in the service of the English, *assigned over to them all the resources left in my country*, stopped my very household expenses, together with the jaghires of my servants and dependants, to the amount of 98,98,375 rupees. Besides this, as to the jaghires of my grandmother, mother, and uncle, which were granted to them for their support, *agreeable to engagements*, you are the *masters*; if the council have sent orders for the stopping their jaghiers also, stop them. I have no resources left in my country, and have no friends by me, being even distressed in my daily subsistence. I have some elephants, horses, and the houses which I inhabit; if they can be of any service to my friends, they are ready. Whenever you can discover any resources, seize upon them; I shall not interfere to prevent you. In my present distress for my daily expenses, I was in hopes that they would have excused some part of my debt. Of what use is it for me to relate my situation, which is known to the whole world? This much is sufficient."

The truth of all these representations is no where contested by Mr. Hastings. It is indeed admitted in something stronger than words; for, upon account of the nabob's condition, and the no less distressed condition of his dominions, he thought it fit to withdraw from him and them a large body of the company's troops, together with all the English of a civil description, who were found no less burthensome than the military. This was done on the declared inability of the country any longer to support them; a country not much inferior to England in extent and fertility; and, till lately at least, its equal in population and culture.

It was to a prince, in a state so far remote from freedom, authority, and opulence, so penetrated with the treatment he had received, and the behaviour he had met with from Mr. Hastings, that Mr. Hastings has chosen to attribute a disposition so very generous and munificent as, of his own free grace and mere motion, to make him a present, at one donation, of upwards of 100,000*l*. sterling. This vast private donation was given at the moment of vast instant demands, severely exacted on account of the company, and accumulated on immense debts to the same body; and all taken from a ruined prince, and almost desolated territory.

Mr. Hastings has had the firmness, with all possible ease and apparent unconcern, to request permission from the directors to legalize this forbidden present for his own use.—This he has had the courage to do, at a time

when he had abundant reason to look for, what he has since received, their censure for many material parts of his conduct towards the people from whose wasted substance this pretended free gift was drawn. He does not pretend that he has reason to expect the smallest degree of partiality, in this or any other point, from the court of directors. For, besides his complaint first stated, of having never possessed their confidence, in a late letter* (in which, notwithstanding the censures of parliament, he magnifies his own conduct) he says, that in all the long period of his service "he has almost unremittedly wanted the support which all his predecessors had enjoyed from their constituents. From mine (says he) I have received *nothing but reproach, hard* epithets, and *indignities*, instead of rewards and encouragement." It must therefore have been from some other source of protection than that which the law had placed over him, that he looked for countenance and reward in violating an act of parliament, which forbade him from *taking gifts or presents on any account whatsoever*; much less a gift of this magnitude, which from the distress of the giver, must be supposed the effect of the most cruel extortion.

The directors did wrong in their orders to appropriate money, which they must know could not have been acquired by the consent of the pretended donor, to their own use.—They acted more properly in refusing to confirm this grant to Mr. Hastings, and in choosing rather to refer him to the law, which he had violated, than to his own sense of what he thought he was entitled to take from the natives; putting him in mind that the regulating act had expressly declared, "that no governour-general, or any of the council, shall, directly or indirectly, accept, receive, or take, of or from any person or persons, *or on any account whatsoever*, any present, gift, donation, gratuity, or reward, pecuniary or otherwise; or any promise or engagement for any of the aforesaid." Here is no reserve for the case of a disclosure to the directors, and for the legalizing the breach of an act of parliament by their subsequent consent. The illegality attached to the action at its very commencement; and it could never be afterwards legalized; the directors had no such power reserved to them. Words cannot be devised of a stronger import, or studied with more care. To these words of the act are opposed the declaration and conduct of Mr. Hastings; who, in his letter of January, 1782, thinks fit to declare, that "an offer of a very considerable sum of money was made to him, both on the part of the nabob and his ministers, as a *present, which he had accepted without hesitation*." The plea of his pretended necessity is of no avail. The present was not in ready money, nor, as your committee conceive, applicable to his immediate necessities. Even his credit was not bettered by bills at long periods; he does not pretend that he raised any money upon them; nor is it conceiveable that a banker at Benares would be more willing to honour the draughts of so miserable, undone, and dependant a person, as the nabob of Oude, than those of the governour-general of Bengal; which might be paid either on the receipt of the Benares revenue, or at the seat of his power, and of the company's exchequer. Besides, it is not explicable upon any grounds that can be avowed, why the nabob, who could afford to give these bills as *a present* to Mr. Hastings, could not have equally given them in discharge of the debt which he owed to the company. It is indeed very much to be feared that the people of India find it sometimes turn more to their account, to give presents to the English in authority, than to pay their debts to the public; and this is a matter of a very serious consideration.

No small merit is made by Mr. Hastings, and that too in a high and upbraiding style, of his having come to a voluntary discovery of this and other unlawful practices of the same kind. "That honourable court* (says Mr. Hastings, addressing himself to his masters, in his letter of December, 1782) ought to know whether I possess the integrity and honour, which are the first requisites of such a station. If I wanted these, they have afforded me too powerful incentives to suppress the information which I now convey to them through you, and to appropriate to my own use the sums which I have already passed to their credit, by their *unworthy*, and, pardon me if I add, *dangerous reflections*, which they have passed upon me for the first communication of this kind;" (and he immediately adds, what is singular and striking, and savours of a recriminatory insinuation) "and your *own experience* will suggest to you, that there are persons who would profit by such a warning." To what directors in particular this imputation of experience is applied, and what other persons they are, in whom *experience* has shown a disposition to profit of such a warning, is a mat-

* Vide appendix B. No. 6.
† Vide appendix B. No. 7.

* Vide Appendix, B. No. 6.

ter highly proper to be inquired into. What Mr. Hastings says further on this subject is no less worthy of attention:—"*that he could have concealed these transactions, if he had a wrong motive, from theirs and the public eye forever.*"* It is undoubtedly true, that whether the observation be applicable to the particular case or not, practices of this corrupt nature are extremely difficult of detection any where, but especially in India: but all restraint upon that grand fundamental abuse of presents is gone forever, if the servants of the company can derive safety from a defiance of the law, when they can no longer hope to screen themselves by an evasion of it. All hope of reformation is at an end, if, confiding in the force of a faction among directors or proprietors to bear them out, and possibly to vote them the fruit of their crimes as a reward of their discovery, they find that their bold avowal of their offences is not only to produce indemnity, but to be rated for merit. If once a presumption is admitted, that wherever something is divulged nothing is hid, the discovering of one offence may become the certain means of concealing a multitude of others. The contrivance is easy and trivial, and lies open to the meanest proficient in this kind of art: it will not only become an effectual cover to such practices, but will tend infinitely to increase them. In that case sums of money will be taken for the purpose of discovery, and making merit with the company: and other sums will be taken for the private advantage of the receiver.

It must certainly be impossible for the natives to know what presents are for one purpose, or what for the other. It is not for a Gentû or a Mahometan land-holder, at the foot of the remotest mountains in India, who has no access to our records, and knows nothing of our language, to distinguish what lacks of rupees, which he has given, *eo nomine*, as a present to a company's servant, are to be authorized by his masters in Leadenhall-street as proper and legal, or carried to their public account at their pleasure; and what are laid up for his own emolument.

The legislature, in declaring all presents to be the property of the company, could not consider corruption, extortion, and fraud, as any part of their resources. The property in such presents was declared to be theirs, not as a fund for their benefit, but in order to found a legal title to a civil suit. It was declared theirs, to facilitate the recovery, out of corrupt and oppressive hands, of money illegally taken; but this legal fiction of property could not, nor ought, by the legislature to be considered in any other light than as a trust held by them for those who suffered the injury. Upon any other construction, the company would have a right, first, to extract money from the subjects or dependants of this kingdom, committed to their care, by means of particular conventions, or by taxes, by rents, and by monopolies; and, when they had exhausted every contrivance of public imposition, then they were to be at liberty to let loose upon the people all their servants, from the highest rank to the lowest, to prey upon them at pleasure, and to draw, by personal and official authority, by influence venality, and terror, whatever was left to them; —and that all this was justified, provided the product was paid into the company's exchequer.

This prohibition and permission of presents, with this declaration of property in the company, would leave no property to any man in India. If, however, it should be thought that this clause in the act* should be capable, by construction and retrospect, of so legalizing and thus appropriating these presents, (which your committee conceive impossible,) it is absolutely necessary that it should be very fully explained.

The provision in the act was made in favour of the natives. If such construction prevails, the provision made as their screen from oppression will become the means of increasing and aggravating it without bounds and beyond remedy. If presents, which, when they are given were unlawful, can afterwards be legalized by an application of them to the company's service, no sufferer can even resort to a remedial process at law for his own relief.—The moment he attempts to sue, the money may be paid into the company's treasury; it is then lawfully taken, and the party is nonsuited.

The company itself must suffer extremely in the whole order and regularity of their public accounts, if the idea upon which Mr. Hastings justifies the taking of these presents, receives the smallest countenance. On his principles, the same sum may become private property or public, at the pleasure of the receiver: it is in his power, Mr. Hastings says,† to conceal it forever. He certainly has it in his power not only to keep it back, and bring it forward at his own times, but even to shift

* Vide appendix B. No. 6.

* Act 13 George III. cap. 58.

† Vide Mr. Hastings's letter of 16th December, 1782, in appendix B. No. 6.

and reverse the relations in the accounts (as Mr. Hastings has done) in what manner and proportion seems good to him, and to make himself alternately debtor or creditor for the same sums.

Of this irregularity Mr. Hastings himself appears in some degree sensible. He conceives it possible that his transactions of this nature may, to the court of directors, seem unsatisfactory. He, however, puts it hypothetically ;—" if to you* (says he) who are accustomed to view business in an *official and regular light, they should appear unprecedented if not improper.*" He just conceives it possible, that in an official money transaction the directors may expect a proceeding official and regular. In what other lights than those which are official and regular, matters of public account ought to be regarded by those who have the charge of them, either in Bengal or in England, does not appear to your committee. Any other is certainly " unprecedented and improper ;" and can only serve to cover fraud both in the receipt and in the expenditure. The acquisition of 58,000 rupes, or near 6,000*l.* which appears in the sort of *unofficial and irregular account*, that he furnishes of his presents, in his letter of May, 1782,† must appear extraordinary indeed to those who expect from men in office something official and something regular. " This sum‡ (says he) I received while I was on my journey to Benares." He tells it with the same careless indifference as if things of this kind were found by accident on the high road.

Mr. Hastings did not, indeed he could not, doubt, that this unprecedented and improper account would produce much discussion. He says,§ " why these sums were taken by me ; why they were (except the second) *quietly* transferred to the company's account ; why bonds were taken for the first and not for the rest ; might, were this matter to be exposed to the view of the public, *furnish a variety of conjectures.*"

This matter has appeared, and has furnished, as it ought to do, something more serious than conjectures. It would in any other case be supposed, that Mr. Hastings, expecting such inquiries, and considering that the questions are (even as they are imperfectly stated by himself) far from frivolous, would condescend to give some information upon them ; but the conclusion of a sentence so importantly begun, and which leads to such expectations, is, " that to these conjectures it would be of little use to reply."—This is all he says to public conjecture.

To the court of directors he is very little more complaisant, and not at all more satisfactory ; he states merely as a supposition their inquiry concerning matters of which he positively knew that they had called for an explanation. He knew it, because he presumed to censure them for doing so. To the hypothesis of a further inquiry he gives a conjectural answer of such a kind, as probably, in an account of a doubtful transaction, and to a superior, was never done before.

*" *Were* your honourable court to question me upon these points, I *would* answer, that the sums were taken for the company's benefit at times in which the company very much stood in need of them ; that I *either* chose to conceal the first receipts from public curiosity by receiving bonds for the amount, or *possibly acted without any studied design*, which my memory could at this distance of time verify."

He here professes not to be certain of the motives by which he was himself actuated in so extraordinary a concealment, and in the use of such extraordinary means to effect it : and, as if the acts in question were those of an absolute stranger, and not his own, he gives various loose conjectures concerning the motive to them. He even supposes, in taking presents contrary to law, and in taking bonds for them as his own, contrary to what he admits to be truth and fact, that he might have acted without any distinct motive at all, or at least such as his memory could reach at that distance of time. That immense distance, in the faintness of which his recollection is so completely lost as to set him guessing at his motives for his own conduct, was from the fifteenth of January, 1781, when the bonds at his own request were given, to the date of this letter, which is the 22d of May, 1782 ; that is to say, about one year and four months.

As to the other sums, for which no bond was taken, the ground for the difference in his explanation is still more exraordinary : he says, †" I did not think it worth my care to observe the same means, with the *rest*." The rest of these sums, which were not worth his care, are stated in his account to be greater than those he was so solicitous (for some reason, which he cannot guess) to cover under

* Vide appendix B. No. 6.
† Vide appendix B. No. 3.
‡ Vide appendix B. No. 3.
§ Vide appendix B. No. 3.

* Vide appendix B. No. 3.
† Vide appendix B. No. 3.

bonds: these sums amount to near 53,000*l.* whereas the others did not much exceed 40,000*l.* For these actions, attended with these explanations, he ventures to appeal to their (the directors') breasts for a candid interpretation; and *"he assumes the freedom to add, that he thinks himself on *such* an occasion, entitled to it;" and then, as if he had performed some laudable exploit, in the accompanying letter he glories in the integrity of his conduct; and, anticipating his triumph over injustice, and the applauses which, at a future time, he seems confident he shall receive, says he, †"the applause of my own breast is my surest reward. Your applause, and the applause of my country, is my next wish in life." He declares, in that very letter, that he had not *at any time* possessed the confidence with them, which they never withheld from the meanest of his predecessors. With wishes so near his heart perpetually disappointed, and, instead of applauses, (as he tells us) receiving nothing but reproaches and disgraceful epithets, his steady continuance for so many years in their service, in a place obnoxious in the highest degree to suspicion and censure, is a thing altogether singular.

It appears very necessary to your committee to observe upon the great leading principles which Mr. Hastings assumes, to justify the irregular taking of these vast sums of money, and all the irregular means he had employed to cover the greater part of it.—These principles are the more necessary to be inquired into, because, if admitted, they will serve to justify every species of improper conduct. His words are, ‡"that the sources from which these reliefs to the public service have come, would never have yielded them to the company *publicly*; and that the exigencies of their service (exigencies created by the exposition of their affairs, and faction in their divided councils) required those supplies."

As to the first of these extraordinary positions, your committee cannot conceive what motive could actuate any native of India, dependent on the company, in assisting them privately, and in refusing to assist them publicly. If the transaction was fair and honest, every native must have been desirous of making merit with the great governing power. If he gave his money as a free gift, he might value himself upon very honourable and very acceptable service; if he lent it on the company's bonds, it would still have been of service, and he might also receive eight per cent. for his money. No native could (without some interested view) give to the governour-general what he would refuse to the company as a grant, or even as a loan. It is plain, that the powers of government must, in some way or other, be understood by the natives to be at sale. The governour-general says, that he took the money with an original destination to the purposes, to which, he asserts, he has since applied it. But this original destination was in his own mind only, not declared, nor by him pretended to be declared, to the party who gave the presents, and who could perceive nothing in it but money paid to the supreme magistrate for his own private emolument.—All that the natives could possibly perceive in such a transaction, must be highly dishonourable to the company's government; for they must conceive, when they gave money to Mr. Hastings, that they bought from Mr. Hastings either what was their own right, or something that was not so; or that they redeemed themselves from some acts of rigour inflicted, threatened, or apprehended. If, in the first case, Mr. Hastings gave them the object, for which they bargained, his act, however proper, was corrupt; if he did not, it was both corrupt and fraudulent: if the money was extorted by force or threats, it was oppressive and tyrannical. The very nature of such transactions has a tendency to teach the natives to pay a corrupt court to the servants of the company; and they must thereby be rendered less willing, or less able, or perhaps both, to fulfil their engagements to the state. Mr. Scott's evidence asserts, that they would rather give to Mr. Hastings, than lend to the company. It is very probable; but it is a demonstration of their opinion of his power and corruption, and of the weak and precarious state of the company's authority.

The second principle assumed by Mr. Hastings for his justification; namely, that factious opposition, and a divided government might create exigencies requiring supplies, is full as dangerous as the first; for if, in the divisions, which must arise in all councils, one member of government, when he thinks others factiously disposed, shall be entitled to take money privately from the subject, for the purposes of his politics, and thereby to dispense with an act of parliament, pretences for that end cannot be wanting. A dispute may always be raised in council, in order to cover oppression and peculation elsewhere.—But these principles of Mr. Hastings tend entirely to destroy the character and functions

* Vide appendix B. No. 3.
† Vide appendix B. No. 6.
‡ Ib.

of a council, and to vest them with one of the dissentient members. The law has placed the sense of the whole in the majority; and it is not a thing to be suffered, that any of the members should privately raise money for the avowed purpose of defeating that sense, or for promoting designs that are contrary to it: a more alarming assumption of power, in an individual member of any deliberative or executive body, cannot be imagined. Mr. Hastings had no right, in order to clear himself of peculation, to criminate the majority with faction. No member of any body, out-voted on a question, has, or can have a right to direct any part of his public conduct by that principle. The members of the council had a common superiour, to whom they might appeal in their mutual charges of faction—they did so frequently; and the imputation of faction has almost always been laid on Mr. Hastings himself.

But there were periods, very distinguished periods too, in the records of the company, in which the clandestine taking of money could not be supported even by this pretence. Mr. Hastings has been charged with various acts of peculation, perpetrated at a time he could not excuse himself by the plea of any public purpose to be carried on, or of any faction in council, by which it was traversed. It may be necessary here to recall to the recollection of the house, that on the cry which prevailed, of the ill practices of the company's servants in India (which general cry, in a great measure, produced the regulating act of 1773) the court of directors, in their instructions of the 29th of March, 1774, gave it as an injunction to the council-general, that "they *immediately* cause the *strictest* inquiry to be made into *all* oppressions, which may have been committed either against natives or Europeans, and into *all* abuses which may have prevailed in the collection of the revenues, or *any part of the civil government* of the presidency; and that you communicate to us *all information*, which you may be able to obtain relative thereto, or any embezzlement or dissipation of the company's money."

In this inquiry, by far the most important abuse, which appeared on any of the above heads, was that which was charged relative to the sale in gross, by Mr. Hastings, of nothing less than the whole authority of the country government, in the disposal of the guardianship of the nabob of Bengal.

The present nabob, Mobareck ul Dowlah, was a minor when he succeeded to the title and office of subadar of the three provinces, in 1770. Although in a state approaching to subjection, still his rank and character were important. Much was necessarily to depend upon a person, who was to preserve the moderation of a sovereign, not supported by intrinsic power; and yet to maintain the dignity necessary to carry on the representation of political government, as well as the substance of the whole criminal justice of a great country. A good education, conformably to the maxims of his religion, and the manners of his people, was necessary to enable him to fill that delicate place with reputation either to the Mahometan government, or to ours. He had still to manage a revenue not inconsiderable, which remained as the sole resource for the languishing dignity of persons any way distinguished in rank among Mussulmen, who were all attached and clung to him. These considerations rendered it necessary to put his person and affairs into proper hands. They ought to have been men, who were able, by the gravity of their rank and character, to preserve his morals from the contagion of low and vicious company; men, who, by their integrity and firmness, might be enabled to resist, in some degree the rapacity of Europeans, as well as to secure the remaining fragments of his property from the attempts of the natives themselves, who must be under strong temptation of taking their share in the last pillage of a decaying house.

The directors were fully impressed with the necessity of such an arrangement. Your committee find, that on the 26th of August, 1771, they gave instructions to the president and council to appoint "a minister to transact the political affairs of the circar [the government]; and to select for that purpose some person well qualified for the affairs of government, to be the minister of the government, and guardian of the nabob's minority."

The order was so distinct as not to admit of a mistake; it was (for its matter) provident and well considered; and the trust, which devolved on Mr. Hastings, was of such a nature as might well stimulate a man, sensible to reputation, to fulfil it in a manner agreeably to the directions he had received, and not only above just cause of exception, but out of the reach of suspicion and malice. In that situation, it was natural to suppose he would cast his eyes upon men of the first repute and consideration among the Mussulmen of high rank.

Mr. Hastings instead of directing his eyes to the Durbar, employed his researches in the seraglio. In the inmost recesses of that place he discovered a woman, secluded from the in-

tercourse, and shut up from the eyes of men, whom he found to correspond with the orders he had received from the directors, as a person well "qualified for the affairs of government, fit to be a minister of government, and the guardian of the nabob's minority." This woman he solemnly invests with these functions; he appoints Rajah Gourdas, whom some time after he himself qualified with a description of a young man of mean abilities, to be her duan or steward of the household. The rest of the arrangement was correspondent to this disposition of the principal officers.

It seems not to have been lawful or warrantable in Mr. Hastings to set aside the arrangement positively prescribed by the court of directors, which evidently pointed to a man, not to any woman whatever. As a woman confined in the female apartment, the lady he appointed could not be competent to hold, or qualified to exercise, any active employment; she stood in need of guardians for herself, and had not the ability or the guardianship of a person circumstanced as the soubah was.—General Clavering, Colonel Monson, and Mr. Francis, declare in their minute, "that they believe there never was an instance in India of such a trust so disposed of." Mr. Hastings has produced no precedent in answer to this objection.

It will be proper to state to the house the situation and circumstances of the women principally concerned, who were in the seraglio of Jaffier Ali Khân at his death. The first of these was called Munny Begum, a person originally born of poor and obscure parents, who delivered her over to the conductress of a company of dancing girls; in which profession being called to exhibit at a festival, the late nabob took a liking to her, and after some cohabitation, she obtained such influence over him, that he took her for one of his wives, (and she seems to have been the favourite) put her at the head of his haram; and having a son by her, this son succeeded to his authority and estate; Munny Begum, the mother, being by his will a devisee of considerable sums of money, and other effects, on which he left a charge, which has since been applied to the service of the East-India Company. The son of this lady dying, and a son by another wife succeeding, and dying also, the present nabob, Mobareck ul Dowlah, son by a third wife, succeeded. This woman was then alive, and in the seraglio.

It was Munny Begum, that Mr. Hastings chose, and not the natural mother of the nabob. Whether, having chosen a woman in defiance of the company's orders, and in passing by the natural parent of the minor prince, he was influenced by respect for the disposition made by the deceased nabob during his life, or by other motives, the house will determine upon a view of the facts which follow. It will be matter of inquiry, when the question is stated upon the appointment of a stepmother, in exclusion of the parent, whether the usage of the east constantly authorize the continuance of that same distribution of rank and power, which was settled in the seraglio during the life of a deceased prince, and which was found so settled at his death, and afterwards, to the exclusion of the mother of the successour. In case of female guardianship, her claim seems to be a right of nature; and which nothing but a very clear positive law will (if that can) authorize the departure from. The history of Munny Begum is stated on the records of the council-general and no attempt made by Mr. Hastings to controvert the truth of it.

That was charged by the majority of council to have happened, which might be expected inevitably to happen; the care of the nabob's education was grossly neglected, and his fortune as grossly mismanaged and embezzled. What connexion this waste and embezzlement had with the subsequent events, the house will judge.

On the 2d of May, 1775, Mr. James Grant, accountant to the provincial council of Moorshedabad, produced to the governour-general and council certain Persian papers, which stated nine lacks of rupees (upwards of ninety thousand pounds sterling) received by Munny Begum, on her appointment to the management of the Nabob's household, over and above the balance due at that time, and not accounted for by her. These Grant had received from Nuned Roy, who had been a writer in the begum's treasury office. Both Mr. Grant and Nuned Roy were called before the board, and examined respecting the authenticity of the papers. Among other circumstances tending to establish the credit of these papers, it appears that Mr. Grant offered to make oath, that the chief eunuch of the begum had come to him, on purpose to prevail on him not to send the papers; and had declared, *that the accounts were not to be disputed.*

On the 9th of May it was resolved by a majority of the board, against the opinion and solemn protest of the governour-general, that a gentleman should be sent up to the city of Moorshedabad, to demand of Munny Begum

the accounts of the nizamut and household from April, 1764, to the latest period to which they could be closed, and to divest the begum of the office of guardian to the nabob; and Mr. Charles Goring was appointed for this purpose.

The preceding facts are stated to the house, not as the foundation of an inquiry into the conduct of the begum, but as they lead to, and are therefore necessary to explain by what means a discovery was made of a sum of money given by her to Mr. Hastings.

Mr. Goring's first letter from the city, dated 17th May, 1775, mentions, among other particulars, the young nabob's joy at being delivered out of the hands of Munny Begum; the mean and indigent state of confinement in which he was kept by her; the distress of his mother; and that he had told Mr. Goring, that the "begum's eunuch had instructed the servants not to suffer him to learn any thing by which he might make himself acquainted with business:" and he adds, "Indeed I believe there is great truth in it, as his excellency seems to be ignorant of almost every thing a man of his rank ought to know; not from a want of understanding, but of being properly educated."

On the 21st of May, Mr. Goring transmitted to the governour-general and council an account of sums given by the begum, under her seal, delivered to Mr. Goring by the nabob, in her apartments. The account is as follows:

MEMORANDUM of disbursements to English gentlemen, from the nabob's sircar, in the Bengal year 1179.

Seal of Munny Begum, mother of the nabob Nudjuf ul Dowlah, deceased.

To the governour, Mr. Hastings, for an entertainment - -	1,50,000
To Mr. Middleton, on account of an agreement entered into by Baboo Begum - - -	1,50,000
Rupees	3,00,000

When this paper was delivered, the governour-general moved, that Mr. Goring might be asked, *How he came by it?* and, *on what account this partial selection was made by him?* Also, that the begum should be desired *to explain the sum laid to his charge;* and that he should ask *the nabob or the begum their reasons for delivering this separate account.*

The substance of the governour's proposal was agreed to.

Mr. Goring's answer to this requisition of the board is as follows:

"In compliance with your orders, to explain the delivery of the paper containing an account of three lacks of rupees, I am to inform you it took its rise from a message sent me by the begum, requesting I would interest myself with the nabob, to have Akbar Ally Khân released to her for a few hours, having something of importance to communicate to me, on which she wished to consult him. Thinking the service might be benefitted by it, I accordingly desired the nabob would be pleased to deliver him to my charge, engaging to return him the same night; which I did.—I heard no more till next day, when the begum requested to see his excellency and myself, desiring Akbar Ally might attend.

"On our first meeting, she entered into a long detail of her administration, endeavouring to represent it in the fairest light; at last she came to the point, and told me, my urgent and repeated remonstrances to her to be informed how the balance arose, of which I was to inquire, induced her from memory to say what she had herself given; then mentioning the sum of a lack and a half to the governour, to feast him whilst he staid there; and a lack and a half to Mr. Middleton, by the hands of Baboo Begum. As I looked on this no more than a matter of conversation, I arose to depart, but was detained by the begum's requesting the nabob to come to her; a scene of weeping and complaint then began, which made me still more impatient to be gone; and I repeatedly sent to his excellency for that purpose; he at last came out, and delivered me a paper I sent you, declaring it was given him by the begum to be delivered me."

Munny Begum also wrote a letter to General Clavering in which she directly asserts the same.

"Mr. Goring has pressed me on the subject of the balances; in answer to which I informed him, that all the particulars being on record, would, in the course of the inquiry, appear from the papers. He accordingly received from the nabob Mobareck ul Dowlah a list of three lacks of rupees given to the governour and Mr. Middleton. I now send you enclosed a list of the dates when it was presented and through whose means, which you will receive."

The governour-general then desired that the following questions might be proposed to the be-

gum by Mr. Martin, then resident at the Durbar.

1st. Was any application made to you for the account, which you have delivered, of three lacks of rupees, said to have been paid to the governour and Mr. Middleton, or did you deliver the account of your own free will, and unsolicited?

2d. In what manner was the application made to you; and by whom?

3d. On what account was the sum of one and a half lacks given to the governour-general, which you have laid to his account? Was it in consequence of any requisition from him, or of any previous agreement, or of any established usage?

The governour-general objected strongly to Mr. Goring's being present when the questions were put to the begum; but it was insisted on by the majority, and it was resolved accordingly, that he ought to be present. The reasons on both sides will best appear by the copy of the debate, inserted in the appendix.

The begum's answer to the preceding questions, addressed to the governour-general and council, where it touched the substance, was as follows:

"The case is this: Mr. Goring, on his arrival here, *seized all the papers, and secured them under his seal; and all the mutseddies [clerks or accountants] attended him, and explained to him all the particulars of them.*—Mr. Goring inquired of me concerning the arrears due to the sepoys, &c. observing that the nizamut and bhela money [nabob's allowance] was received from the company; from whence then could the balance arise? I made answer, that the sum was not adequate to the expenses. Mr. Goring then asked, what are those expenses which exceed the sum received from the company? I replied, *all the particulars will be found in the papers.*—The affair of the three lacks of rupees, *on account of entertainment for the governour and Mr. Middleton*, has been, I am told, related to you by Rajah Gourdass; besides which, there are many other expenses, which will appear from the papers. As the custom of entertainment is of long standing, and accordingly every governour of Calcutta, who came to Moorshedabad, received a daily sum of two thousand rupees for entertainment, which was in fact instead of provisions; and the lack and an half of rupees, laid to Mr. Middleton's charge, was *a present on account of an agreement entered into by the Bhow Begum*, I therefore affixed my seal to the account, and forwarded it to Mr. Goring by means of the nabob."

In this answer, the accounts given to Mr. Goring she asserts to be genuine. They are explained, in all the particulars, by all the secretaries and clerks in office. They are secured under Mr. Goring's seal. To them she refers for every thing; to them she refers for the three lacks of rupees given to Mr. Hastings and Mr. Middleton. It is impossible to combine together a clearer body of proof, composed of record of office and verbal testimony, mutually supporting and illustrating each other.

The house will observe, that the receipts of the money is indirectly admitted by one of the governour's own questions to Munny Begum.

If the money was not received, it would have been absurd to ask, *on what account it was given?* Both the question and the answer relate to some established usage, the appeal to which might possibly be used to justify the acceptance of the money, if it was accepted; but would be superfluous, and no way applicable to the charge, if the money was never given.

On this point, your committee will only add, that in all the controversy between Mr. Hastings and the majority of the council, he *no where denies the receipt of this money.*—In his letter to the court of directors, of the 31st of July, 1775, he says, that the begum was compelled, by the ill treatment of one of her servants, which he calls *a species of torture*, to deliver the paper to Mr. Goring; but he no where affirms, that the contents of the paper were false.

On this conduct, the majority remark, "We confess it appears very extraordinary, that Mr. Hastings should employ so much time and labour to show that the discoveries against him have been obtained by improper means, but that he should take no step whatsoever *to invalidate the truth of them.* He does not deny the receipt of the money; the begum's answers to the questions, put to her at his own desire, make it impossible that he should deny it. It seems, he has formed some plan of defence against this and similar charges, which he thinks will avail him in the court of justice, and which it would be imprudent in him to anticipate at this time. If he has not received the money, we see no reason for such a guarded and cautious method of proceeding. An innocent man would take a shorter and easier course. He would voluntarily exculpate himself by his oath."

Your committee entertain doubts whether

the refusal to exculpate by oath can be used as a circumstance to infer any presumption of guilt. But where the charge is direct, specific, circumstantial, supported by papers and verbal testimony, made before his lawful superiours, to whom he was accountable, by persons competent to charge; if innocent, he was obliged at least to oppose to it a clear and formal denial of the fact, and to make a demand for inquiry. But if he does not deny the fact, and eludes inquiry, just presumptions will be raised against him.

Your committee, willing to go to the bottom of a mode of corruption, deep and dangerous in the act and the example, being infomed that Mr. Goring was in London, resolved to examine him upon the subject. Mr. Goring not only agreed with all the foregoing particulars, but even produced to your committee, what he declared to be the original Persian papers in his hands, delivered from behind the curtain, through the nabob himself; who, having privilege as a son-in-law, to enter the women's apartment, received them from Munny Begum, as authentic; the woman all the while lamenting the loss of her power with many tears, and much vociferation. She appears to have been induced to make discovery of the above practices, in order to clear herself of the notorious embezzlement of the nabob's effects.

Your committee examining Mr. Scott and Mr. Baber on this subject, they also produced a Persian paper, which Mr. Baber said he received from the hands of a servant of Munny Begum; and along with it a paper, purporting to be a translation into English of the Persian original. In the paper given as the translation, Munny Begum is made to allege many matters of hardship and cruelty against Mr. Goring, and an attempt to compel her to make out a false account; but does not at all deny the giving the money—very far from it. She is made to assert, indeed "that Mr. Goring desired her to put down three lacks of rupees, as divided between Mr. Hastings and Mr. Middleton. I begged to be excused; observing to him, that this money had neither been tendered or *accepted* with any criminal or improper view." After some lively expressions in the European manner, she says, "that it had been customary to furnish a table for the governour and his attendants, during their stay at court. With respect to the sum mentioned to Mr. Middleton, it was *a free gift* from my own *privy purse*. *Purburam* replied, he understood this money to be paid to these gentlemen, as a gratuity for *secret services*; and as such he should assuredly represent it." Here the payments to Mr. Hastings are fully admitted, and excused as agreeable to usage, and for keeping a table. The present to Mr. Middleton is justified as a free gift. The paper produced by Mr. Scott is not referred to by your committee as of any weight, but to show that it does not prove what it is produced to prove.

Your committee, on reading the paper delivered in by Mr. Scott as a translation, perceive it to be written in a style which they conceived was little to be expected in a faithful translation from a Persian original, being full of quaint terms and idiomatic phrases, which strongly bespeak English habits in the way of thinking, and of English peculiarities and affectations in the expression. Struck with these strong internal marks of a suspicious piece, they turned to the Persian manuscript produced by Mr. Scott and Mr. Baber, and comparing it with Mr. Goring's papers, they found the latter carefully sealed upon every leaf, as they believe is the practice universal in all authentic pieces. They found on the former no seal or signature whatsoever, either at the top or bottom of the scroll. This circumstance of a want of signature not only takes away all authority from the piece as evidence, but strongly confirmed the suspicions entertained by your committee, on reading the translation of unwarrantable practices in the whole conduct of this business, even if the translation should be found substantially to agree with the original, such an original as it is. The Persian roll is in the custody of the clerk of your committee for further examination.

Mr. Baber and Mr. Scott, being examined on these material defects in the authenticalness of a paper, produced by them as authentic, could give no sort of account how it happened to be without a signature; nor did Mr. Baber explain how he came to accept, and use it on that condition.

On the whole, your committee conceive, that all the parts of the transaction, as they appear in the company's records, are consistent, and mutually throw light on each other.

The court of directors order the president and council to appoint a minister to transact the *political* affairs of the government, and to select, for that purpose, some person well-qualified for the affairs of government, and to be the *minister of the government*. Mr. Hastings selects for the minister, so described, and so qualified, a woman locked up in a seraglio.

He is ordered to appoint a guardian to the nabob's minority. Mr. Hastings passes by

his natural parent, and appoints another woman. These acts would, of themselves, have been liable to suspicion; but a great deficiency or embezzlement soon appears in this woman's account. To exculpate herself, she voluntarily declares, that she gave a considerable sum to Mr. Hastings:—who never once denies the receipt. The account given by the principal living witness of the transaction, in his evidence, is perfectly coherent and consistent with the recorded part. The original accounts, alleged to be delivered by the lady in question, were produced by him, properly sealed and authenticated. Nothing is opposed to all this, but a paper without signature, and therefore of no authority, attended with a translation of a very extraordinary appearance; and this paper, in apologizing for it, confirms the fact beyond a doubt.

Finally, your committee examined the principal living witness of the transaction, and find his evidence consistent with the record. Your committee received the original accounts alleged to be delivered by the lady in question, properly sealed and authenticated; and find opposed to them, nothing but a paper without a signature, and therefore of no authority, attended with a translation of a very extraordinary appearance.

In Europe, the directors ordered opinions to be taken on a prosecution; they received one doubtful, and three positively for it.

They write, in their letter of 5th February, 1777, paragraph 32 and 33: "Although it is rather our wish to prevent evils in future than to enter into a severe retrospection of the past, and, where facts are doubtful, or attended with alleviating circumstances, to proceed with lenity, rather than to prosecute with rigour; yet some of the cases are so flagrantly corrupt, and others attended with circumstances so oppressive to the inhabitants, that it would be unjust to suffer the delinquents to go unpunished. The principal facts have been communicated to our solicitor,* whose report, confirmed by our standing council, we send you by the present conveyance; authorizing you, at the same time, to take such steps as shall appear proper to be pursued.

"If we find it necessary, we shall return you the original covenants of such of our servants as remain in India, and have been anywise concerned in the undue receipt of money, in order to enable you to recover the same for the use of the company by a suit or suits at law, to be instituted in the supreme court of judicature in Bengal."

Your committee do not find that the covenants have been sent, or that any prosecution has been begun.

A vast scene of further peculation and corruption, as well in this business as in several other instances, appears in the evidence of the Rajah Nundcomar. That evidence, and all the proceedings relating to it, are entered in the appendix. It was the last evidence of the kind. The informant was hanged. An attempt was made by Mr. Hastings to indict him for a conspiracy: this failing of effect, another prosecutor appeared for an offence not connected with these charges. Nundcomar, the object of that charge, was executed at the very crisis of the inquiry for an offence of another nature, not capital by the laws of the country. As long as it appeared safe, several charges were made (which are inserted at large in the appendix;) and Mr. Hastings and Mr. Barwell seemed apprehensive of many more. General Clavering, Colonel Monson, and Mr. Francis declared, in a minute entered on the consultations of the 5th May, 1775, that, "in the late proceedings of the revenue board, it will appear that there is no species of peculation, from which the honourable governour-general has thought proper to abstain." A charge of offences of so heinous a nature, so very extensive, so very deliberate, made on record by persons of great weight, appointed by act of parliament—his associates in the highest trust; a charge made at his own board, to his own face, and transmitted to their common superiours, to whom they were jointly and severally accountable;—this was not a thing to be passed over by Mr. Hastings; still less ought it to have perished in other hands. It ought to have been brought to an immediate and strict discussion. General Clavering, Colonel Monson, and Mr. Francis, ought to have been punished for a groundless accusation, if such it had been.—If the accusation were founded, Mr. Hastings was very unfit for the high office of governour-general, or for any office.

After this comprehensive account by his colleagues, of the governour-general's conduct, these gentlemen proceeded to the particulars, and they produced the case of a corrupt bargain of Mr. Hastings's concerning the disposition of office. This transaction is here stated by your committee in a very concise manner, being on this occasion merely intended to point out to the house the absolute necessity, which, in their opinion, exists, for

* Relative to salt farms, charges of the ranny of Burdwan, and the charges of Nundcomar and Munny Begum.

another sort of inquiry into the corruptions of men in power in India, than hitherto has been pursued. The proceedings may be found at large in the appendix.

A complaint was made that Mr. Hastings had sold the office of phouzedar of Hughly to a person called Khân Jehan Khân on a corrupt agreement; which was, that from his emoluments of 72,000 rupees a year, he was to pay to the governour-general 36,000 rupees annually; and to his banyan, Cantû Babû, 4,000 more. The complainant offers to pay to the company the 40,000 rupees, which were corruptly paid to these gentlemen, and to content himself with the allowance of 32,000. Mr. Hastings was, if on any occasion of his life, strongly called upon to bring this matter to the more distinct issue; and Mr. Barwell, who supported his administration, and as such ought to have been tender for his honour, was bound to help him to get to the bottom of it, if his enemies should be ungenerous enough to countenance such an accusation, without permitting it to be detected and exposed. But the course they held was directly contrary. They began by an objection to receive the complaint, in which they obstinately persevered, as far as their power went. Mr. Barwell was of opinion, that the company's instructions to inquire into peculation were intended for the public interests; that it could not forward the public interests to enter into these inquiries; and that "he never would be a channel of aspersing any character, while it cannot conduce to the good of government." —Here was a new mode of reasoning found out by Mr. Barwell, which might subject all inquiry into peculation to the discretion of the very persons charged with it. By that reasoning, all orders of his superiours were at his mercy; and he actually undertook to set aside those commands, which, by an express act of parliament he was bound to obey, on his opinion of what would, or would not, conduce to the good of government. On his principles, he either totally annihilates the authority of the act of parliament, or he entertains so extravagant a supposition, as that the court of directors possessed a more absolute authority, when their orders were not intended for the public good, than when they were.

General Clavering was of a different opinion: he thought, "he should be wanting to the legislature, and to the court of directors, if he was not to receive the complaints of the inhabitants, when properly authenticated, and to prefer them to the board for investigation, as the only means by which these grievances can be redressed, and the company informed of the conduct of their servants."

To these sentiments Colonel Monson and Mr. Francis adhered. Mr. Hastings thought it more safe, on principles similar to those assumed by Mr. Barwell, to refuse to hear the charge; but he reserved his remarks on this transaction, because they will be equally applicable to *many others, which, in the course of this business, are likely to be brought before the board*. There appeared therefore to him, a probability that the charge about the corrupt bargain was no more than the commencement of a whole class of such accusations; since he was of opinion (and what is very extraordinary, previous to any examination) that the same remarks would be applicable to several of those which were to follow. He must suppose this class of charges very uniform, as well as very extensive.

The majority, however, pressed their point; and, notwithstanding his opposition to all inquiry, as he was supported only by Mr. Barwell, the question for it was carried. He was then desired to name a day for the appearance of the accuser, and the institution of the inquiry. Though baffled in his attempt to stop the inquiry in the first stage, Mr. Hastings made a second stand; he seems here to have recollected something inherent in his own office, that put the matter more in his own power than at first he had imagined; for he speaks in a positive and commanding tone, "I will not (says his minute) name a day for Mir Zin ul ab Dien to appear before the board; *nor will I suffer him to appear before the board*."

The question for the inquiry had been carried. It was declared fit to inquire; but there was, according to him, a power which might prevent the appearance of witnesses. On the general policy of obstructing such inquiries, Mr. Francis, on a motion to that effect, made a sound remark, which cannot fail of giving rise to very serious thoughts; "that, supposing it agreed among ourselves, that the board shall not hear any charges or complaints a member of it, a case or cases may hereafter happen, in which, by a reciprocal complaisance to each other, our respective misconduct may be effectually screened from inquiry: and the company, whose interest is concerned, or the parties, who may have reason to complain of any one member individually, may be left without remedy."

Mr. Barwell was not of the opinion of that gentleman, nor of the maker of the motion, General Clavering, nor of Mr. Monson, who

supported it. He entertains sentiments, with regard to the orders of the directors in this particular, perfectly correspondent with those which he had given against the original inquiry. He says, "though it may in some little degree save the governour-general from personal insult—where there is no judicial power lodged, that of inquisition can never answer any good purpose." This is doctrine of a most extraordinary nature and tendency; and, as your committee conceive, contrary to every sound principle to be observed in the constitution of judicatures and inquisitions. The power of inquisition ought rather to be wholly separated from the judicial, the former being a previous step to the latter, which requires other rules and methods; and ought not, if possible, to be lodged in the same hands. The rest of his minute (contained in the appendix) is filled with a censure on the native inhabitants; with reflections on the ill-consequences which would arise from an attention to their complaints; and with an assertion of the authority of the supreme court, as superseding the necessity and propriety of such inquiries in council. With regard to his principles relative to the natives and their complaints, if they are admitted, they are of a tendency to cut off the very principle of redress. The existence of the supreme court, as a means of relief to the natives under all oppressions, is held out to qualify a refusal to hear in the council. On the same pretence, Mr. Hastings holds up the authority of the same tribunal. But this and other proceedings show abundantly of what efficacy that court has been for the relief of the unhappy people of Bengal. A person in delegated authority refuses a satisfaction to his superiours, throwing himself on a court of justice, and supposes that nothing, but what judicially appears against him, is a fit subject of inquiry. But even in this Mr. Hastings fails in his application of his principle; for the majority of the council were undoubtedly competent to order a prosecution against him in the supreme court, which they had no ground for without a previous inquiry. But their inquiry had other objects. No private accuser might choose to appear. The party, who was the subject of the peculation, might be (as here is stated) the accomplice in it. No popular action, or popular suit, was provided by the charter, under whose authority the court was instituted. In any event, a suit might fail in the court for the punishment of an actor in an abuse, for want of the strictest legal proof, which might yet furnish matter for the correction of the abuse, and even reasons strong enough not only to justify, but to require the directors instantly to address for the removal of a governour-general. The opposition of Mr. Hastings and Mr. Barwell proved as ineffectual in this stage as the former; and a day was named by the majority for the attendance of the party.

The day following this deliberation, on the assembling of the council, the governour-general, Mr. Hastings, said, "He would not sit to be confronted by such accusers, nor to *suffer* a judicial inquiry into his conduct at the board, of which he is the president." As on the former occasions, he declares the board dissolved. As on the former occasions, the majority did not admit his claim to this power, they proceeded, in his absence, to examine the accuser and witnesses. Their proceedings are in appendix K.

It is very remarkable, that during this transaction Khân Jehan Khân, the party, with whom the corrupt agreement was made, declined an attendance under excuses, which the majority thought pretences for delay, though they used no compulsory methods towards his appearance; at length, however, he did appear, and then a step was taken by Mr. Hastings of a very extraordinary nature, after the steps which he had taken before, and the declarations with which those steps had been accompanied. Mr. Hastings, who had absolutely refused to be present in the foregoing part of the proceeding, appeared with Khân Jehan Khân. And now the affair took another turn; other obstructions were raised. General Clavering said, that the informations hitherto taken had proceeded upon oath. Khân Jehan Khân had previously declared to Genera Clavering his readiness to be so examined; but, when called upon by the board, he changed his mind, and alleged a delicacy, relative to his rank, with regard to the oath. In this scruple he was strongly supported by Mr. Hastings. He and Mr. Barwell went further; they contended, that the council had no right to administer an oath. They must have been very clear in that opinion, when they resisted the examination on oath of the very person, who, if he could safely swear to Mr. Hastings's innocence, owed it as a debt to his patron not to refuse it; and of the payment of this debt it was extraordinary in the patron not only to enforce but to support the absolute refusal.

Although the majority did not acquiesce in this doctrine, they appeared to have doubts of the prudence of enforcing it by violent means;

but, construing his refusal into a disposition to screen the peculations of the governour-general, they treated him as guilty of a contempt of their board, dismised him from the service, and recommended another (not the accuser) to his office.

The reasons on both sides appear in the appendix. Mr. Hastings accuses them bitterly of injustice to himself in considering the refusal of this person to swear as a charge proved. How far they did so, and under what qualifications, will appear by reference to the papers in the appendix. But Mr. Hastings "thanks God that they are not his judges." His great hold, and not without reason, is the supreme court; and he "blesses the wisdom of parliament, that constituted a court of judicature at so seasonable a time, to check the despotism of the new council." It was thought in England, that the court had other objects than the protection of the governour-general against the examinations of those sent out with instructions to inquire into the peculations of men in power. Though Mr. Hastings did at that time, and avowedly did, every thing to prevent any inquiry that was instituted merely for the information of the court of directors, yet he did not feel himself thoroughly satisfied with his own proceedings.

It was evident, that to them, his and Mr. Barwell's reasonings would not appear very respectful or satisfactory; he therefore promises to give them full satisfaction, at some future time. In his letter of the 14th of September, 1775, he reiterates a former declaration, and assures them of his resolution to this purpose in the strongest terms. I now *again* recur to the declaration which I have before made, that it is my fixed determination to carry *literally* into *execution, and most fully and liberally explain every circumstance of my conduct on the points upon which I have been injuriously arraigned;* and to afford you the clearest conviction of my own integrity, and of the propriety of my motives for my declining a present defence of it."

These motives, as far as they can be discovered, where the violence of his adversaries, the interested character and views of the accuser, and the danger of a prosecution in the supreme court, which made it prudent to reserve his defence. These arguments are applicable to any charge. Notwithstanding these reasons, it is plain by the above letter, that he thought himself bound, at some time or other, to give satisfaction to his masters: till he should do this, in his own opinion, he remained in an unpleasant situation. But he bore his misfortune, it seems, patiently, with a confidence in their justice for his future relief. He says, "whatever evil may fill the *long interval*, which may precede it."—That interval he has taken care to make long enough; for near eight years are now elapsed, and he has not yet taken the smallest step towards giving to the court of directors any explanation whatever; much less that full and liberal explanation, which he had so repeatedly and solemnly promised.

It is to be observed, that though Mr. Hastings talks in these letters much of his integrity, and of the purity of his motives, and of full explanations, he no where denies the fact of this corrupt traffic of office. Though he had adjourned his defence with so much pain to himself, to so very long a day, he was not so inattentive to the case of Khân Jehan Khân, as he has shown himself to his own. He had been accused of corruptly reserving to himself a part of the emoluments of this man's office: it was a delicate business to handle, whilst his defence stood adjourned; yet, in a very short time after a majority came into his hands, he turned out the person appointed by General Clavering, &c. and replaced the very man with whom he stood accused of the corrupt bargain; what was worse, he had been charged with originally turning out another, to make room for this man. The whole is put in strong terms by the then majority of the council; where, after charging him with every species of peculation, they add, "we believe, the proofs of his appropriating four parts in seven of the salary, with which the company is charged for the phousdar of Hughley, are such as, whether sufficient or not to convict him in a court of justice, will not leave the shadow of a doubt concerning his guilt in the mind of any unprejudiced person.—The salary is 72,000 rupees a year: the governour takes 36,000, and allows Cantoo Baboo four thousand more for the trouble he submits to in conducting the negotiation with the phousdar. This also is the common subject of conversation and derision through the whole settlement.—It is our firm opinion and belief that the phousdar of Hughley, a relation of Mahomed Reza Cawn, was turned out of this office, merely because his terms were not so favourable as those which the honourable governour-general has obtained from the present phousdar.

"The honourable governour-general is pleased to assert, with a confidential spirit peculiar to himself, that his measures hitherto stand unimpeached, except by us. We know

not how this assertion is to be made good, unless *the most daring and flagrant prostitution in every branch* be deemed an honour to his administration."

The whole style and tenour of these accusations, as well as the nature of them, rendered Mr. Hastings's first postponing, and afterwards totally declining all denial, or even defence or explanation, very extraordinary. No governour ought to hear in silence such charges; and no court of directors ought to have slept upon them.

The court of directors were not wholly inattentive to this business. They condemned his act as it deserved, and they went into the business of his legal right to dissolve the council. Their opinions seemed against it, and they gave precise orders against the use of any such power in future. On consulting Mr. Sayer, the company's counsel, he was of a different opinion with regard to the legal right; but he thought, very properly, that the use of a right, and the manner and purposes for which it was used, ought not to have been separated. What he thought on this occasion appears in his opinion, transmitted by the court of directors to Mr. Hastings and the council-general; "but it was as great a crime to dissolve the council upon *base and sinister motives*, as it would be to assume the power of dissolving, if he had it not. I believe he is *the first governour that ever* dissolved a council inquiring into his behaviour when he was innocent. Before he could summon three councils and dissolve them, he had time fully to consider what would be the result of such conduct, *to convince every body, beyond a doubt, of his conscious guilt.*"

It was a matter but of small consolation to Mr. Hastings, during the painful interval he describes, to find that the company's learned counsel admitted that he had legal powers, of which he made an use, that raised an universal presumption of his guilt.

Other counsel did not think so favourably of the powers themselves. But this matter was of less consequence, because a great difference of opinion may arise concerning the extent of official powers, even among men professionally educated, (as in this case such a difference did arise) and well-intentioned men may take either part. But the use that was made of it, in systematical contradiction to the company's orders, has been stated in the ninth report, as well as in many others made by two of your committees.

*** *AS the* Appendixes, *originally printed with the foregoing Reports, and which consist, chiefly, of official documents, would have swelled this volume to an enormous size, it has been thought proper to omit them, with the exception of the first* nine numbers *of the* Appendix B. *to the* Eleventh Report: *the insertion of which has been judged necessary for the elucidation of the subject-matter of that report.*

APPENDIX B. No. 1.

COPY OF A LETTER FROM THE GOVERNOUR-GENERAL TO THE COURT OF DIRECTORS,

To the Honourable the Court of Directors of the Honourable United East-India Company.

Fort William, 29th November, 1780.

HONOURABLE SIRS,

You will be informed, by our consultations of the 26th of June, of a very unusual tender, which was made by me to the board on that day, for the purpose of indemnifying the company for the extraordinary expense which might be incurred by supplying the detachment under the command of Major Camac, in the invasion of the Mahratta dominions which lay beyond the district of Gohed, and drawing the attention of Mahdajee Sindia, to whom that country immediately appertained, from General Goddard; while he was employed in the reduction of Bassein, and in securing the conquests made by your arms in Guzerat. I was desirous to remove the only objection which has been, or could be, ostensibly made to the measure, which I had very much at heart, as may be easily conceived from the means which I took to effect it. For the reasons at large, which induced me to propose that diversion, it will be sufficient to refer to my minute, recommending it, and to the letters received from General Goddard, near the same period of time. The subject is now become obsolete, and all the fair hopes which I

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had built upon the prosecution of the Mahratta war, of its termination in a speedy, honourable, and advantageous peace, have been blasted by the dreadful calamities which have befallen your arms, in the dependencies of your presidency of Fort Saint George; and changed the object of our pursuit, from the aggrandizement of your power to its preservation. My present reason for reverting to my own conduct on the occasion which I have mentioned, is to obviate the false conclusions, or purposed misrepresentations which may be made of it, either as an artifice of ostentation, or as the effect of corrupt influence, by assuring you that the money, *by whatever means it came into your possession*, was not my own; that I had myself no right to it, nor would or could have received it, but for the occasion which prompted me to avail myself of the accidental means which were at that instant afforded me, of accepting and converting it to the property and use of the company: and with this brief apology I shall dismiss the subject.

Something of affinity to this anecdote may appear in the first aspect of *another* transaction, which I shall proceed to relate, and of which it is more immediately my duty to inform you:—you will have been advised, by repeated addresses of this government, of the arrival of an army at Cuttac, under the command of Chimnajee Boosla, the second son of Moodajee Boosla, the rajah of Berar.

The origin and destination of this force have been largely explained and detailed in the correspondence of the government of Berar, and in various parts of our consultations. The minute relation of these would exceed the bounds of a letter; I shall therefore confine myself to the principal fact.—About the middle of the last year, a plan of confederacy was formed by the Nabob Nizam Ally Cawn, by which it was proposed, that, while the army of the Mahrattas, under the command of Mahdajee Sindia and Tuckoojee Hoolkar, was employed to check the operations of General Goddard in the west of India, Hyder Ally Cawn should invade the Carnatic; Moodajee Boosla, the provinces of Bengal; and he himself the Sircars of Rajamundry and Chicacole.

The government of Berar was required to accept the part assigned it in this combination, and to march a large body of troops immediately into Bengal. To enforce the request on the part of the ruling member of the Mahratta state, menaces of instant hostility by the combined forces, were added by Mahdajee Sindia, Tuckoojee Hoolkar, and Nizam Ally Cawn, in letters written by them to Moodajee Boosla, on the occasion. He was not in a state to sustain the brunt of so formidable a league, and ostensibly yielded. Such at least was the turn which he gave to his acquiescence, in his letters to me; and his subsequent conduct has justified his professions. I was early and progressively acquainted by him with the requisition, and with the measures which were intended to be taken, and which were taken by him upon it. The army professedly destined for Bengal marched on the dusserra of the last year, corresponding with the 7th of October. Instead of taking the direct course to Behar, which has been prescribed, it proceeded, by varied deviations and studied delays, to Cuttac, where it arrived late in May last, having performed a practicable journey of three months in seven, and concluded it at the instant commencement of the rains, which of course would preclude its operations, and afford the government of Berar a further interval of five months to provide for the part which it would then be compelled to choose. In the mean time letters were continually written by the rajah and his minister to this government, explanatory of their situation and motives; proposing their mediation and guarantee for a peace and alliance with the peshwa; and professing, without solicitation on our part, the most friendly disposition towards us, and the most determined resolution to maintain it.

Conformably to these assurances, and the acceptance of a proposal made by Moodajee Boosla to depute his minister to Bengal for the purpose of negotiating and concluding the proposed treaty of peace, application had been made to the peshwa for credentials to the same effect. In the mean time the fatal news arrived of the defeat of your army at Conjeveram. It now became necessary that every other object should give place, or be made subservient, to the preservation of the Carnatic; nor would the measures requisite for that end admit an instant of delay. Peace with the Mahrattas was the first object; to conciliate their alliance, and that of every other power in natural enmity with Hyder Ally, the next.—Instant measures were taken (as our general advices will inform you) to secure both these points, and to employ the government of Berar as the channel and instrument of accomplishing them. Its army still lay on our borders and in distress for a long arrear of pay; not less occasioned by the want of pecuniary funds, than a stoppage of communication. An application had been made to us for a supply of money; and the

sum specified for the complete relief of the army was sixteen lacks. We had neither money to spare, nor in the apparent state of that government in its relation to ours, would it have been either prudent, or consistent with our public credit, to have afforded it. It was, nevertheless, my decided opinion, that some aid should be given; not less as a necessary relief, than as an indication of confidence, and a return for the many instances of substantial kindness, which we had, within the course of the last two years, experienced from the government of Berar. I had an assurance that such a proposal would receive the acquiescence of the board; but I knew that it would not pass without opposition, and it would have become public, which might have defeated its purpose. Convinced of the necessity of the expedient, and assured of the sincerity of the government of Berar from evidences of stronger proof to me than I could make them appear to the other members of the board, I resolved to adopt it, and take the entire responsibility of it upon myself. In this mode, a less considerable sum would suffice: I accordingly caused three lacks of rupees to be delivered to the minister of the rajah of Berar resident in Calcutta: he has transmitted it to Cuttac.—Two-thirds of this sum I have raised by my own credit, and shall charge it in my official accounts: the other third I have supplied from the cash in my hands, belonging to the honourable company. I have given due notice to Moodajee Boosla of this transaction, and explained it to have been a private act of my own, unknown to the other members of the council. I have given him expectations of the remainder of the amount required for the arrears of his army, proportioned to the extent to which he may put it in my power to propose it as a public gratuity, by his effectual orders for the recall of these troops, or for their junction with ours.

I hope I shall receive your approbation of what I have done for your service, and your indulgence for the length of this narrative, which I could not comprise within a narrower compass. I have the honour to be,

Honourable sirs,

Your most faithful, obedient and
Humble servant,
WARREN HASTINGS.

APPENDIX B. No. 2.

AN ACCOUNT OF MONEY PAID INTO THE COMPANY'S TREASURY BY THE GOVERNOUR-GENERAL, SINCE THE YEAR 1773.

May April			
1774 to 1775.	For interest bonds. CR. - - - -	2,175*	
	For bills of exchange on the court, - - -	1,43,937	
	For money refunded by order of court, Account General Coote's commission, - - - -	8,418 CR.	
			1,54,530
1775—1776.	For bills of exchange on the court - - - -		1,80,480
1776—1777.	do. do. do. - - - -		1,96,800
1777—1778.	do. do. do. - - - -		1,08,000
1778—1779.	do. do. do. - - - -		1,43,000
1779—1780.	do. do. do. - - - -		1,21,600
1780—1781.	For bills of exchange CR. - - - -	43,000	
	For deposits - - - - -	2,38,715	
	For interest bonds at 8 per cent. - - -	4,75,600	
	For do. 4 per cent. - - - -	1,66,000	
	For durbar charges - - - - -	2,32,000	
			11,55,315
May, 1782.	For interest bonds, - - - - -		35,000
		CR.	20,94,725

* Received 19th May, Cancelled 30th July, 1774.

(Errours excepted.)

JOHN ANNIS, Auditor of Indian Accounts.

East-India House, 11th June, 1782.

APPENDIX B. No. 3.

To the Honourable the Secret Committee of the Honourable Court of Directors.

Fort William, 22d May, 1782.

HONOURABLE SIRS,

In a letter, which I have had the honour to address you in duplicate, and of which a triplicate accompanies this, dated 20th January, 1782, I informed you that I had received the offer of a sum of money from the nabob vizier and his ministers, to the nominal amount of ten lacks of Lucknow Siccas: and that bills on the house of Gopaul Doss had been actually given me for the amount, which I had accepted for the use of the honourable company; and I promised to account with you for the same as soon as it should be in my power, after the whole sum had come into my possession. This promise I now perform; and, deeming it consistent with the spirit of it, I have added such *other* sums as have been occasionally converted to the company's property through my means, and in consequence of the like original destination. Of the second of these you have been already advised in a letter, which I had the honour to address the honourable court of directors, dated 29th of November, 1780. Both this and the third article were paid immediately to the treasury by my order to the sub-treasurer to receive them on the company's account, but never passed through my hands. The three sums, for which bonds were granted, were in like manner paid to the company's treasury, without passing through my hands; but their appropriation was not specified.

The sum of fifty-eight thousand current rupees was received while I was on my journey to Benares, and applied as expressed in the account.

As to the manner in which these sums have been expended, the reference which I have made of it in the accompanying account, to the several accounts in which they are credited, renders any other specification of it unnecessary; beside that those accounts either have or will have received a much stronger authentication than any that I could give to mine.

Why these sums were taken by me; why they were, except the second, quietly transferred to the company's use; why bonds were taken for the first, and not for the rest; might, were this matter to be exposed to the view of the public, furnish a variety of conjectures, to which it would be of little use to reply. Were your honourable court to question me upon these points, I would answer, that the sums were taken for the company's benefit at times in which the company very much needed them; that I either chose to conceal the first receipts from public curiosity, by receiving bonds for the amount: or possibly acted without any studied design, which my memory could at this distance of time verify; and that I did not think it worth my care to observe the same means with the rest. I trust, honourable sirs, to your breasts for a candid interpretation of my actions, and assume the freedom to add, that I think myself, on such a subject, and on such an occasion, entitled to it.

I have the honour to be, honourable sirs,

Your most faithful, most obedient, and
Most humble servant,
WARREN HASTINGS.

APPENDIX B. No. 4.

AN ACCOUNT OF SUMS RECEIVED ON THE ACCOUNT OF THE HONOURABLE COMPANY BY THE GOVERNOUR-GENERAL, OR PAID TO THEIR TREASURY BY HIS ORDER, AND APPLIED TO THEIR SERVICE.

1780.
October. The following sums were paid into the treasury, and bonds granted for the same, in the name of the governour-general, in whose possession the bonds remain, with a declaration upon each, endorsed and signed by him, that he has no claim on the company

	for the amount either of principal or interest, no part of the latter having been received:		
	One bond, dated the 1st October, 1780, No. 1539,	1,16,000 - -	
	One bond, dated the 2d October, 1780, No. 1540,	1,16,000 - -	
	One bond, dated the 23d Novem. 1780, No. 1354,	1,74,000 - -	
			4,06,000 - -
November.	Paid into the treasury, and carried to the governour-general's credit in the 12th page of the Deposites Journal of 1780–81, mohurs of sorts, which had been coined in the mint and produced, as per 358 and 359 pages of the company's general journal of 1780–81,		
	Gold Mohurs, - - - -	12,861 12 11	
	or Calcutta Siccas, - - -	2,05,788 14 9	
	Batta 16 per cent. - - - -	32,926 3 6	
			2,38,715 2 3
1781. 30 April.	Paid into the treasury, and credited in the 637th page of the company's general journal, as money received from the governour-general, on account of Durbar charges,		
	Sicca rup. - - - - -	2,00,000 - -	
	Batta 16 per cent. - - - -	32,000 - -	
			2,32,000 - -
August.	Received in cash, and employed in defraying my public disbursements, and credited in the governour-general's account of Durbar charges for April, 1782 - - - -		58,000 - -
	Produce of the sum mentioned in the governour-general's letter to the honourable secret committee, dated 20th January, 1782, and credited in the governour-general's account of Durbar charges for April, 1782, - - - - -		10,30,275 1 3
	Current rupees - -		19,64,990 3 6

(Errours excepted.)

WARREN HASTINGS.

Fort-William, 22d May, 1782.

APPENDIX B. No. 5.

I, William Larkins, do make oath, and say, that the letter and account to which this affidavit is affixed, were written by me, at the request of the honourable Warren Hastings, Esquire, on the 22d May, 1782, from rough drafts written by himself in my presence: that the cover of the letter was sealed up by him in my presence, and was then intended to be transmitted to England by the Lively, when that vessel was first ordered for despatch; and that it has remained closed until this day, when it was opened for the express purpose of being accompanied by this affidavit. So help me God, WILLIAM LARKINS.

Calcutta, 16th December, 1782.

Sworn this 16th day of December, 1782, before me. *J. Hyde.*

APPENDIX B. No. 6.

To the Honourable the Secret Committee of the Honourable Court of Directors.

Fort William, 16th December, 1782.

HONOURABLE SIRS,

THE despatch of the Lively having been protracted by various causes, from time to time, the accompanying address which was originally designed and prepared for that despatch (no other conveyance since occurring) has of course been thus long detained. The delay is of no public consequence; but it has produced a situation which, with respect to myself, I regard as unfortunate, because it exposes me to the meanest imputation, from the occasion, which the late parliamentary inquiries have since furnished, but which were unknown when my letter was written, and written in the necessary consequence of a promise made to that effect in a former letter to your honourable committee, dated 20th January last. However, to preclude the possibility of such reflections from affecting me, I have desired Mr. Larkins, who was privy to the whole tronsaction, to affix to the letter his affidavit of the date in which it was written. I own I feel most sensibly the mortification of being reduced to the necessity of using such precautions, to guard my reputation from dishonour.—If I had, at any time, possessed that degree of confidence from my immediate employers, which they never withheld from the meanest of my predecessors, I should have disdained to use these attentions: how I have drawn on me a different treatment I know not; it is sufficient that I have not merited it: and in the course of a service of thirty-two years, and ten of these employed in maintaining the powers and discharging the duties of the first office of the British government in India, that honourable court ought to know whether I possess the integrity and honour which are the first requisites of such a station. If I wanted these, they have afforded me but too powerful incentives to suppress the information, which I now convey to them through you; and to appropriate to my own use the sums which I have already passed to their credit, by the unworthy, and, pardon me if I add, dangerous reflections, which they have passed upon me, for the first communication of this kind; and your own experience will suggest to you, that there are persons who would profit by such a warning.

Upon the whole of these transactions, which to you, who are accustomed to view business in an official and regular light, may appear unprecedented, if not improper, I have but a few short remarks to suggest to your consideration.

If I appear in any unfavourable light by these transactions, I resign the common and legal security of those who commit crimes or errours. I am ready to answer every particular question that may be put against myself, upon honour or upon oath.

The sources from which these reliefs to the public service have come, would never have yielded them to the company publicly; and the exigencies of your service (exigencies created by the exposition of your affairs, and faction in your councils) required those supplies.

I could have concealed them, had I had a wrong motive, from yours and the public eye forever: and I know that the difficulties to which,a spirit of injustice may subject me, for my candour and avowal, are greater than any possible inconvenience that could have attended the concealment, except the dissatisfaction of my own mind. These difficulties are but a few of those which I have suffered in your service. The applause of my own breast is my surest reward, and was the support of my mind in meeting them: your applause, and that of my country, are my next wish in life.

I have the honour to be, honourable sirs,
your most faithful, most obedient,
and most humble servant,
WARREN HASTINGS.

APPENDIX B. No. 7.

EXTRACT OF THE COMPANY'S GENERAL LETTER TO BENGAL; DATED THE 25TH OF JANUARY, 1782.

Par. 127. We have received a letter from our governour-general, dated the 29th of November, 1780, relative to an unusual tender and advance of money, made by him to the council, as entered on your consultation of the 26th of June, for the purpose of indemnifying the company from the extraordinary charge which might be incurred by supplying the detachment under the command of Major Camac, in the invasion of the Mahratta dominions, which lay beyond the district of Gohud, and thereby drawing the attention of Mahdajee Sindia (to whom the country appertained) from General Goddard, while the general was employed in the reduction of Bassein, and in securing the conquests made in the Guzerat country; and also respecting the sum of three lacks of rupees, advanced by the governour-general for the use of the army under the command of Chimnajee Boosla without the authority or knowledge of the council; with the reasons for taking these extraordinary steps, under the circumstances stated in his letter.

128. In regard to the first of these transactions, we readily conceive, that in the then state of the council, the governour-general might be induced to temporary secrecy respecting the members of the board, not only because he might be apprehensive of opposition to the proposed application of the money, but, perhaps, because doubts might have arisen concerning the propriety of appropriating it to the company's use, on any account: but it does *not appear to us*, that there could be any real necessity for delaying to communicate to us immediate information of the channel by which the money came into his possession, with a complete illustration of the cause or causes of so extraordinary an event.

129. Circumstanced as affairs were at the moment, it appears that the governour-general had the measure much at heart, and judged it absolutely necessary. The means proposed of defraying the extra expense were very extraordinary; and the money, as we conceive, must have come into his hands by an unusual channel; and when more complete information comes before us, we shall give our sentiments fully upon the whole transaction.

130. In regard to the application of the company's money to the army of Chimnajee Boosla, by the sole authority of the governour-general, he knew that it was entirely at his own risk, and he has taken the responsibility upon himself; nothing but the most urgent necessity couly warrant the measure; nor can any thing short of full proof of such necessity, and of the propriety and utility of the extraordinary step taken on the occasion, entitle the governour-general to the approbation of the court of directors; and therefore, as in the former instance relative to the sum advanced and paid into our treasury, we must also, for the present, *suspend* our judgment respecting the money sent to the Berar army; without approving it in the least degree, or proceeding to censure our governour-general for this transaction.

APPENDIX B. No. 8.

EXTRACT OF BENGAL SECRET CONSULTATIONS, THE 9TH JANUARY, 1781.

The following letter from the governour-general having been circulated, and the request therein made complied with, an order on the treasury passed accordingly.

HONOURABLE SIR AND SIRS.

Having had occasion to disburse the sum of three lacks of sicca rupees on account of secret services, which, having been advanced from my own private cash, I request the same may be repaid to me in the following manner: —A bond to be granted me, upon the terms of the second loan, bearing date from the 1st of October, for one lack of sicca rupees: a bond to be granted me, upon the terms of the first loan, bearing date from the 1st of October, for one lack of sicca rupees: a bond to be granted me, upon the terms of the first loan, bearing date from the 2d October, for one lack of sicca rupees.

I have the honour to be, &c. &c.

(Signed)

WARREN HASTINGS.

Fort William, 8th January, 1781.

APPENDIX B. No. 9.

AN ACCOUNT OF BONDS GRANTED TO THE GOVERNOUR-GENERAL, FROM 1ST JANUARY, 1779, TO 31ST MAY, 1782, WITH INTEREST PAID OR CREDITED THEREON.

When paid into the Treasury.	Sum.	Date of Bond.	Rate of Interest.
	CR.		
22d Nov. 1780	1,74,000	23d Nov. 1780	9 per cent.
28th Decem.	69,600	15th Decem.	Do.
18th Jan. 1781	1,16,000	1st Oct. 1780	Do.
Do.	1,16,000	2d Do.	Do.
Do.	1,16,000	1st Do.	4 per cent.
17th March	50,000	17th Mar. 1781	Do.
8th May, 1782	20,000	15th Sep. 1781	8 per cent.
Do.	15,000	8th Dec. 1781	Do.
CR.	6,76,600		

There does not appear to have been any interest paid on the above bonds to 31st May, 1782, the last accounts received. In the interest book 1780–81, the last received, the governour-general has credit for interest on the first six to April 1781, to the amount of CR. 21,964. 12. 8.

(Errours excepted.)

JOHN ANNIS,
Auditor of Indian Accounts.

East-India House, 5th June, 1782.

ARTICLES OF CHARGE OF HIGH CRIMES AND MISDEMEANOURS.

AGAINST WARREN HASTINGS, ESQ., LATE GOVERNOUR-GENERAL OF BENGAL. PRESENTED TO THE HOUSE OF COMMONS UPON THE 4TH DAY OF APRIL, 1786.

I. ROHILLA WAR.

THAT the court of directors of the East India company, from a just sense of the danger and odium incident to the extension of their conquests in the East-Indies, and from an experience of the disorders and corrupt practices, which intrigues and negotiations to bring about revolutions among the country powers had produced, did positively and repeatedly direct their servants in Bengal not to engage in any offensive war whatsoever:—that the said

court laid it down as an *invariable maxim, which ought ever to be maintained, that they were to avoid taking part in the political schemes of any of the country princes;* and did, in particular, order and direct that they should not engage with a certain prince called Sujah ul Dowla, nabob of Oude, and vizier of the empire, in any operations beyond certain limits in the said orders specially described.

That Warren Hastings, Esq. then governour of Fort William, in Bengal, did, with other members of the council, declare his clear understanding of the true intent and meaning of the said positive and repeated orders and injunctions; did express to the court of directors his approbation of the policy thereof; did declare, that he adopted the same *with sincerity and satisfaction*, and that he was *too well aware of the ruinous tendency of all schemes of conquest, ever to adopt them, or ever to depart from the absolute line of self-defence, unless impelled to it by the most obvious necessity;* did signify to the nabob of Oude the said orders, and his obligation to yield punctual obedience thereto; and did solemnly engage and promise to the court of directors, with the *unanimous concurrence* of the whole council, "that no object or consideration should either tempt or compel him to pass the political line, which they (the directors) had laid down for his operations with the vizier;" assuring the court of directors, that he "scarce saw a possible advantage, which could compensate the hazard and expense to be incurred by a contrary conduct:"—that he did frequently repeat the same declarations, or declarations to the same effect, particularly in a letter to the nabob himself of the 22d of November, 1773, in the following words. "The commands of my superiors are, as I have repeatedly informed you, peremptory, that I shall not suffer their arms to be carried beyond the line of their own boundaries, and those of your excellency their ally."

That the said Warren Hastings, in direct contradiction to the said orders, and to his own sense of their propriety and coercive authority, and in breach of his express promises and engagements, did, in September, 1773, enter into a private engagement with the said nabob of Oude, who was the special object of the prohibition, to furnish him, for a stipulated sum of money to be paid to the East-India company, with a body of troops for the declared purpose of "thoroughly extirpating the nation of the Rohillas:"—a nation, from whom the company had never received, or pretended to receive or apprehend, any injury whatsoever; whose country, in the month of February, 1773, by an unanimous resolution of the said Warren Hastings and his council, was included in the line of defence against the Mahrattas, and from whom the nabob never complained of an aggression or act of hostility, nor pretended a distinct cause of quarrel, other than the non-payment of a sum of money in dispute between him and that people.

That supposing the sum of money in question to have been strictly due to the said nabob, by virtue of any engagement between him and the Rohilla chiefs, the East-India company, or their representatives, were not parties to that engagement, or guarantees thereof, nor bound by any obligation whatever to enforce the execution of it.

That, previous to the said Warren Hastings's entering into the agreement or bargain aforesaid to extirpate the said nation, he did not make, or cause to be made, a due inquiry into the validity of the sole pretext used by the said nabob; nor did he give notice of the said claims of debt to the nation of the Rohillas, in order to receive an explanation on their part of the matter in litigation, nor did he offer any mediation, nor propose, nor afford an opportunity of proposing an agreement or submission, by which the calamities of war might be avoided; as, by the high state in which the East-India company stood as a sovereign power in the east, and the honour and character it ought to maintain, as well as by the principles of equity and humanity, and by the true and obvious policy of uniting the power of the Mahometan princes against the Mahrattas, he was bound to do:—that instead of such previous inquiry, or tender of good offices, the said Warren Hastings did stimulate the ambitionn and ferocity of the nabob of Oude to the full completion of the inhuman end of the said unjustifiable enterprize, by informing him, "that it would be absolutely necessary to persevere in it until it should be accomplished;" pretending that a fear of the company's displeasure was his motive for annexing the accomplishment of the enterprize as a condition of his assistance, and asserting "that he could not hazard or answer for the displeasure of the company, his masters, if they should find themselves involved in a *fruitless* war, or in an expense for prosecuting it;"—a pretence tending to the high dishonour of the East-India company, as if the gain to be acquired was to reconcile that body to the breach of their own orders, prohibiting all such enterprizes.—And in order further to involve the said nabob, beyond the power of re-

treating, he did, in the course of the proceeding, purposely put the said nabob under difficulties in case he should decline that war, and did oblige him to accept even the permission to relinquish the execution of this unjust project as a favour, and *to make concessions for it*; thereby acting as if the company were principals in the hostility; and employing for this purpose much double dealing, and divers unworthy artifices, to entangle and perplex the said nabob, but by means of which he found himself (as he has entered it on record) *hampered and embarrassed in a particular manner.*

That the said compact for offensive alliance in favour of a great prince, against a considerable nation, was not carried on by projects and counter-projects in writing; nor were the articles and conditions thereof formed into any regular written instrument, signed and sealed by the parties; but the whole (both the negotiation and the compact of the offensive alliance against the Rohillas) was a mere verbal engagement, the purport and conventions whereof nowhere appeared, except in subsequent correspondence, in which certain of the articles, as they were stated by the several parties, did materially differ,—a proceeding new and unprecedented, and directly leading to mutual misconstruction, evasion, and ill faith, and tending to encourage and protect every species of corrupt, clandestine practice:—that at the time when this private verbal agreement was made by the said Warren Hastings with the nabob of Oude, a public ostensible treaty was concluded by him with the said nabob, in which there is no mention whatever of such agreement, or reference whatever to it; in defence of which omission it is asserted by the said Warren Hastings, that *the multiplication of treaties weakens their efficacy, and therefore they should be reserved only for very important and permanent obligations*; notwithstanding he had previously declared to the said nabob, "that the points, which he had proposed, required much consideration, and the previous ratification of a formal agreement before he could consent to them."—That the whole of the said verbal agreement with the nabob of Oude in his own person, without any assistance on his part, was carried on and concluded by the said Warren Hastings alone, without any person, who might witness the same; without the interpreter, though he confesses that he spoke the Hindoostan language *imperfectly*, and although he had with him at that time and place several persons high in the company's service and confidence, namely the commander-in-chief of their forces, two members of their council, and the secretary to the council, who were not otherwise acquainted with the proceedings between him and the said nabob, than by such communications as he thought fit to make them.

That the object avowed by the said Warren Hastings, and the motives urged by him, for employing the British arms in the utter extirpation of the Rohilla nation, are stated by himself in the following terms: "the acquisition of forty lacks of rupees to the company, and of so much specie added to the exhausted currency of our provinces;—that it would give wealth to the nabob of Oude, of which we should participate; that the said Warren Hastings *should* always be ready to profess that he did reckon the probable acquisition of wealth among his reasons for taking up arms against his *neighbours*;—that it would ease the company of a considerable part of their military expense, and preserve their troops from inaction and relaxation of discipline;—that the weak state of the Rohillas promised an easy conquest of them; and, finally, that such was his idea of the company's distress at home, added to his knowledge of their wants abroad, that he should have been glad of *any* occasion to employ their forces, which saved so much of their pay and expenses."

That in the private verbal agreement aforesaid for offensive war, the said Warren Hastings did transgress the bounds of the authority given him by his instructions from the council of Fort William, which had limited his powers to such compacts "as were consistent with the spirit of the company's orders;" which council he afterwards persuaded, and with difficulty drew into an acquiescence in what he had done.

That the agreement, to the effect aforesaid was settled in the said secret conferences, before the 10th of September, 1773; but the said Warren Hastings, concealing from the court of directors a matter, of which it was his duty to afford them the earliest and fullest information, did, on the said 10th of September, 1773, write to the directors, and despatched his letter over land, giving them an account of the public treaty, but taking not the least notice of his agreement for a mercenary war against the nation of the Rohillas.

That in order to conceal the true purport of the said clandestine agreement the more effectually, and until he should find means of gaining over the rest of the council to a concurrence in his disobedience of orders, he entered a minute in the council books, giving a

false account of the transaction; in which minute he represented, that the nabob had indeed *proposed* the design aforesaid, and that he (the said Warren Hastings) *was pleased that he urged the scheme of this expedition no further;* when in reality and truth, he had absolutely consented to the said enterprize, and had engaged to assist him in it (which he afterwards admitted) and confessed that he did act in consequence of the same.

That the said Warren Hastings and his council were sensible of the true nature of the enterprize, in which they had engaged the company's arms, and of the heavy responsibility, to which it would subject himself and the council, "the personal hazard they, the council, run in undertaking so *uncommon* a measure without *positive* instructions, at their own risk, with the eyes of the whole nation on the affairs of the company, and the passions and projudices of almost every man in England inflamed against the conduct of the company, and the character of its servants;"—yet they engage in the very practice which had brought such odium on the company, and on the character its servants, though they further say, that they had continually before *their eyes the dread of forfeiting the favour of their employers*, and becoming the objects of *popular* invectives." The said Warren Hastings himself says, at the very time when he proposed the measure, "I must confess, I entertain some doubts as to its expediency at this time, from the circumstances of the *company* at home, exposed to *popular* clamour, and all its measures liable to be canvassed in *parliament;* their charter drawing to a close, and his majesty's ministers unquestionably ready to take advantage of every unfavourable circumstance in the negotiations of its renewal." All these considerations did not prevent the said Warren Hastings from making and carrying into execution the said mercenary agreement for a sum of money, the payment of which the nabob endeavoured to evade on a construction of the verbal treaty; and was so far from being insisted on, as it ought to have been, by the said Warren Hastings, that when, after the completion of the service, the commander-in-chief was directed to make a demand of the money, the agent of the said Warren Hastings at the same time assured the nabob, "that the demand was nothing more than matter of form, common, and even necessary in all public transactions; and that, although the board considered the claim of the government literally due, it was not the intention of administration to prescribe to his excellency *the mode or even limits of payment.*" Nor was any part of the money recovered until the establishment of the governour-general and council by act of parliament, and their determination to withdraw the brigade from the nabob's service: the resident at his court, appointed by the said Warren Hastings, having written *that he had experienced much duplicity and deceit in most of his transactions with his excellency;* and the said nabob and his successours falling back in other payments in the same or greater proportion, as he advanced in the payment of this debt; the consideration of lucre to the company, the declared motive to this shameful transaction, totally failed, and no money in effect and substance (as far as by any account to be depended on appears) has been obtained.

That the said nabob of Oude did, in consequence of the said agreement, and with the assistance of British troops, which were ordered to march, and subjected to his disposal by the said Warren Hastings and the council, unjustly entered into and invade the country of the Rohillas, and did there make war in a barbarous and unhuman manner, "by an abuse of victory," "by the unnecessary destruction of the country;" "by a wanton display of violence and oppression, of inhumanity and cruelty;" and "by the sudden expulsion and casting down of a whole race of people, to whom the slightest benevolence was denied." When prayer was made not to dishonour the begum (a princess of great rank, whose husband had been killed in battle) and other women, by *dragging them about the country, to be loaded with the scoffs of the nabob's rabble, and otherwise still worse used*, the nabob refused to listen to the intreaties of a British commander-in-chief in their favour; and the said women of high rank were exposed, not only to the vilest personal indignities, but even to absolute want; and these transactions being by Colonel Champion communicated to the said Warren Hastings, instead of commendations for his intelligence, and orders to redress the said evils, and to prevent the like in future, by means which were suggested, and which appear to have been proper and feasible, he received a reprimand from the said Warren Hastings, who declared that we had no authority to control the conduct of the vizier in the treatment of his subjects: and that Colonel Champion desisted from making further representations on this subject to the said Warren Hastings, being apprehensive of having already run some risk of displeasing, by perhaps a too free communication of senti-

ments.—That in consequence of the said proceedings not only the eminent families of the chiefs of the Rohilla nation were either cut off or banished, and their wives and offspring reduced to utter ruin, but the country itself, heretofore distinguished above all others for the extent of its cultivation, as a *garden*, not having *one spot* in it of *uncultivated* ground, and from being *in the most flourishing state that a country could be*, was by the inhuman mode of carrying on the war, and the ill government during the consequent usurpation, reduced to a state of great decay and depopulation, in which it still remains.

That the East-India company, having had reason to conceive, that for the purpose of concealing currupt transactions, their servants in India had made unfair, mutilated, and garbled communications of correspondence, and sometimes had wholly withheld the same, made an order in their letter of the 23d of March, 1770, in the following tenour.—"The governour singly shall correspond with the country powers; but *all* letters, before they shall be by him sent, must be communicated to the other members of the select committee, and receive their approbation; and also *all* letters *whatsoever*, which may be received by the governour, in answer to, or in course of correspondence, shall likewise be laid before the said select committee, for their information and consideration."—And that in their instructions to their governour-general and council, dated 30th March, 1774, they did repeat their orders to the same purpose and effect.

That the said Warren Hastings did not obey, as in duty he was bound to do, the said standing orders; nor did communicate all his correspondence with Mr. Middleton, the company's agent at the court of the soubah of Oude, or with Colonel Champion, the commander-in-chief of the company's forces in the Rohilla war, to the select committee; and when afterwards, that is to say, on the 25th of October, 1774, he was required by the majority of the council appointed by the act of parliament of 1773, whose opinion was, by the said act, directed to be taken as the act of the whole council, to produce *all* his correspondence with Mr. Middleton and Colonel Champion, for the direction of their future proceedings relative to the obscure, intricate, and critical transaction aforesaid, he did positively and pertinaciously refuse to deliver any other than such parts of the said correspondence as he thought convenient; covering his said illegal refusal under general vague pretences of secrecy and danger from the communication; although the said order and instruction of the court of directors, above mentioned, was urged to him, and although it was represented to him by the said council, that they, as well as he, were bound by an oath of secrecy; which refusal to obey the orders of the court of directors (orders especially and on weighty grounds of experience pointed to cases of this very nature) gave rise to much jealousy, and excited great suspicions relative to the motives and grounds on which the Rohilla war had been undertaken.

That the said Warren Hastings, in the grounds alleged in his justification of his refusal to communicate to his colleagues in the superior council, his correspondence with Mr. Middleton, the company's resident at Oude, was guilty of a new offence; arrogating to himself unprecedented and dangerous powers, on principles utterly subversive of all order and discipline in service, and introductory to corrupt confederacies and disobedience among the company's servants; the said Warren Hastings, insisted that Mr. Middleton, the company's covenant servant, the public resident for transacting the company's affairs at the court of the soubah of Oude, and as such receiving from the company a salary for his service, was no other than the *official agent* of him the said Warren Hastings, and that, being such, he was not obliged to communicate his correspondence.

That the court of directors, and afterwards a general court of the proprietors of the East-India company, although the latter showed favourable disposition towards the said Warren Hastings, and expressed (but without assigning any ground or reason) the highest opinion of his services and integrity, did unanimously condemn (along with his conduct relative to the Rohilla treaty and war) his refusal to communicate his whole correspondence with Mr. Middleton to the superior council; yet the said Warren Hastings, in defiance of the opinion of the directors, and the unanimous opinion of the general court of the said East-India company, as well as the precedent positive orders of the court of directors, and the injunctions of an act of parliament, has, from that time to the present, never made any communication of the whole of his correspondence to the governour-general and council, or to the court of directors.

II. SHAW ALLUM.

THAT, in a solemn treaty of peace, concluded the 16th of August, 1765, between the East-India company and the late nabob of Oude, Shuja ul Dowla, and highly approved of, confirmed, and ratified by the said company, it is agreed, "That the king Shaw Allum shall remain in full possession of Corah, and such part of the province of Illiabad as he now possesses, which are ceded to his majesty as a royal demesne, for the support of his dignity and expenses."—That in a separate agreement, concluded at the same time between the king Shaw Allum and the then subadar of Bengal, under the immediate security and guarantee of the English company, the faith of the company was pledged to the said king for the annual payment of twenty-six lacks of rupees, for his support, out of the revenues of Bengal; and that the said company did then receive from the said king a grant of the dewanny of the provinces of Bengal, Bahar, and Orissa, on the express condition of their being security for the annual payment above mentioned;—that the East-India company have held and continue to hold, the dewanny so granted, and, for some years, have complied with the conditions on which they accepted of the grant thereof; and have at all times acknowledged that they held the dewanny *in virtue of the mogul's grants.*—That the said court of directors, in their letter of the 30th June, 1769, to Bengal declared, "that they esteemed themselves bound by treaty to protect the king's person, and to secure him the possession of the Corah and Illiabad districts;" and, supposing an agreement should be made respecting these provinces, between the king and Shuja ul Dowla, the directors then said, "that they should be subject to no further claim or requisition from the king, excepting for the stipulated tribute for Bengal, which they (the governor and council) were to pay to his agent, or remit to him in such manner as he might direct."

That, in the year 1772, the king Shaw Allum who had hitherto resided at Allahabad, trusting to engagements which he had entered into with the Mahrattas, quitted that place, and removed to Delhi; but having soon quarrelled with those people, and afterwards being taken prisoner, had been treated by them with very great disrespect and cruelty:—that, among other instances of their abuse of their immediate power over him, the governor and council of Bengal, in their letter of the 16th of August, 1773, inform the court of directors, that he had been *compelled, while a prisoner in their hands, to grant sunnuds for the surrender of Corah and Illiabad to them*; and it appears, from sundry other minutes of their own, that the said governour and council did at all times consider the surrender above mentioned as *extorted* from the king, and *unquestionably an act of violence*, which could not alienate or impair his right to those provinces; and that, when they took possession thereof, it was at the request of the king's naib or viceroy, who put them under the council's *protection*; that on this footing they were accepted by the said Warren Hastings and his council, and for some time considered by them as a deposit committed to their care by a prince, to whom the possession thereof was particularly guarantied by the East India company.—In their letter of the 1st of March, 1773, they (the said Warren Hastings and his council) say, "In no shape can this compulsatory cession by the king release us from the obligation we are under to defend the provinces, which we have so particularly guarantied to him." But it appears that they soon adopted other ideas, and assumed other principles concerning this object. In the instructions dated the 23d of June, 1773, which the council of Fort William gave to the said Warren Hastings, previous to his interview with the nabob Shuja ul Dowla at Benares, they say, that, "while the king continued at Delhi, whither he proceeded in opposition to their most strenuous remonstrances, they should certainly consider the engagements between him and the company as dissolved, by this alienation from them and their interest; that the possession of so remote a country could never be expected to yield any profit to the company, and the defence of it must require a perpetual aid of their forces;" yet, in the same instructions, they declare their opinion, that, "if the king should make overtures to renew his former connection, *his right to reclaim the districts of Corah and Illiabad could not with propriety be disputed*;" and they authorize the said Warren Hastings to restore them to him, *on condition that he should renounce his claim to the annual tribute of twenty-six lacks of rupees*, hereinbefore mentioned, *and to the arrears, which might be due*;—thereby acknowledging the the justice of a claim, which they determined not to comply with, but in return for the surrender of another equally valid;—that nevertheless in the treaty concluded by the said Warren Hastings with Shuja ul Dowla, on the 7th of September, 1773, it is asserted, that

his majesty (meaning the king Shaw Allum) having abandoned the districts of Corah and Illiabad, and given a sunnud for Corah and Currah to the Mahrattas, had thereby forfeited his right to the said districts;" although it was well known to the said Warren Hastings, and had been so stated by him to the court of directors, that this surrender on the part of the king had been extorted from him by violence, while he was a prisoner in the hands of the Mahrattas; and although it was equally well known to the said Warren Hastings, that there was nothing in the original treaty of 1765, which could restrain the king from changing the place of his residence, consequently that his removal to Delhi could not occasion a forfeiture of his right to the provinces secured to him by that treaty.

That the said Warren Hastings, in the report which he made of his interview and negotiations with Shuja ul Dowla, dated the 4th of October, 1773, declared "that the administration would have been culpable in the highest degree, in retaining possession of Corah and Illiabad *for any other purpose than that of making an advantage by the disposal of them*," and therefore he had ceded them to the vizier for fifty lacks of rupees; a measure, for which he had no authority whatever from the king Shaw Allum, and in the execution of which no reserve whatever was made in favor of the rights of that prince, nor any care taken of his interests.

That the sale of these provinces to Shuja Dowla involved the East-India company in a triple breach of justice, since, by the same act, they violated a treaty, they sold the property of another, and they alienated a deposit committed to their friendship and good faith, and as such accepted by them;—that a measure of this nature is not to be defended on motives of policy and convenience, supposing such motives to have existed, without a total loss of public honour, and shaking all security in the faith of treaties; but that, in reality, the pretences urged by the said Warren Hastings, for selling the king's country to Shuja Dowla, were false and invalid. It could not strengthen our alliance with Shuja ul Dowla; since, paying a price for a purchase, he received no favour, and incurred no obligation. It did not free the company from all the dangers attending either a remote property or a remote connection; since, the moment the country in question became part of Shuja Dowla's dominions, it was included in the company's former guarantee of those dominions, and in case of invasion, the company were obliged to send part of their army to defend it, at the requisition of the said Shuja Dowla: and if the remote situation of those provinces made the defence of them difficult and dangerous, much more was it a difficult and dangerous enterprize to engage the company's force in an attack and invasion of the Rohillas, whose country lay at a much greater distance from the company's frontier; which, nevertheless, the said Warren Hastings agreed to, and undertook at the very time when, under pretence of the difficulty of defending Corah and Illiabad, he sold those provinces to Shuja Dowla. It did not relieve the company from the *expense* of defending the country, since the revenues thereof far exceeded the subsidy to be paid by Shuja Dowla, and these revenues justly belonged to the company as long as the country continued under their protection, and would have answered the expence of defending it. Finally, that the sum of fifty lack of rupees, stipulated with the said Shuja Dowla, was inadequate to the value of the country, the annual revenues of which were stated at twenty-five lacks of rupees, which General Sir Robert Barker, then commander-in-chief of the company's forces, affirms, *was certain, and too generally known to admit of a doubt*.

That the king Shaw Allum received, for some years, the annual tribute of twenty-six lacks of rupees above mentioned, and was entitled to continue to receive it by virtue of an engagement deliberately, and for an adequate consideration, entered into with him by the company's servants, and approved of and ratified by the company themselves;—that this engagement was absolute and unconditional, and did neither express, nor suppose, any case, in which the said king should forfeit, or the company should have a right to resume, the tribute;—that, nevertheless, the said Warren Hastings and his council, immediately after selling the king's country to Shuja Dowla, resolved to withhold, and actually withheld, the payment of the said tribute, of which the king Shaw Allum has never since received any part;—that this resolution of the council is not justified even, by themselves, on principles of right and justice, but by arguments of policy and convenience, by which the best founded claims of right and justice may at all times be set aside and defeated. "They judged it highly impolitic and unsafe to answer the draughts of the king until they were satisfied of his amicable intentions, and those of his new allies." But neither had they any reason to question the king's amicable intentions, nor was he pledged to answer for those of the

Mahrattas; his trusting to the good faith of that people, and relying on their assistance to reinstate him in the possession of his capital, might have been imprudent and impolitic; but these measures, however ruinous to himself, indicated no enmity to the English, nor were they productive of any effects injurious to the English interests. And it is plain, that the said Warren Hastings and his council were perfectly aware, that their motives or pretences for withholding the tribute were too weak to justify their conduct, having principally insisted on the reduced state of their treasury, which, as they said, *rendered it impracticable to comply with those payments*. The *right* of a creditor does not depend on the circumstances of the debtor; on the contrary, the plea of inability included a virtual acknowledgement of the debt, since, if the creditor's right were denied, the plea would be superfluous.

That the East-India company, having on their part violated the engagements, and renounced the conditions on which they received, and have hitherto held and enjoyed, the dewanny of Bengal, Bahar, and Orissa, from the king Shaw Allum, have thereby forfeited all right and title to the said dewanny arising from the said grant, and that it is free and open to the said king to resume such grant, and to transfer it to any other prince or state;—that, notwithstanding any distress or weakness to which he may be actually reduced, his lawful authority, as sovereign of the Mogul empire, is still acknowledged in India, and that his grant of the dewanny would sufficiently authorize, and materially assist any prince or state that might attempt to dispossess the East-India company thereof, since it would convey a right which could not be disputed, and to which nothing but force could be opposed. Nor can these opinions be more strongly impressed than they have been lately by the said Warren Hastings himself, who, in a minute, recorded the 1st of December, 1784, has declared that "fallen as the house of Timur is, it is yet the relic of the most illustrious line of the eastern world;—that *its sovereignty is universally acknowledged*, though the substance of it no longer exists; and that the company itself derives its constitutional dominion from its ostensible bounty."

That the said Warren Hastings, by this declaration, has renounced and condemned the principle on which he avowedly acted towards the mogul in the year 1773, when he denied that the sunnuds or grants of the mogul, if they were in the hands of another nation, would avail them any thing; and when he declared, "that the sword which gave us the dominion of Bengal, must be the instrument of its preservation. and that, if it should ever cease to be ours, the next proprietor would derive his *right* and possession from the same *natural charter*." That the said Warren Hastings, to answer any immediate purpose, adopts any principle of policy, however false or dangerous, without any regard to former declarations made, or to principles avowed on other occasions by himself; and particularly that, in his conduct to Shaw Allum, he first maintained, that the grants of that prince were of no avail, that we held the dominion of Bengal by the sword, which he has falsely declared the source of *right*, and the *natural charter* of dominion; whereas, at a later period, he has declared, that the sovereignty of the family of Shaw Allum is universally acknowledged, and that the company itself derives its constitutional dominion from their ostensible bounty.

III. BENARES.

PART I.

Rights and Titles of the Rajah of Benares

I.—THAT the territory of Benares is a fruitful, and has been, not long since, an orderly, well cultivated and improved province; of great extent; and its capital city, as Warren Hastings, Esq. has informed the court of directors, in his letter of the 21st of November, 1781, "is highly revered by the natives of the Hindû persuasion; so that many, who have acquired independent fortunes, retire to close their days in a place so eminently distinguished for its sanctity:" and he further acquaints the directors, "that it may rather be considered as the seat of the Hindû religion, than as the capital of a province. But as its inhabitants are not composed of Hindûs only, the *former* wealth, which flowed into it from the offerings of pilgrims, as well as from the transactions of exchange, for which its central situation is adapted, has attracted numbers of Mahomedans, who still continue to reside in it with their families." And these circumstances of the city of Benares, which not only attracted the attention of all the different descriptions of men who inhabit Indostan, but interested them warmly in whatever it might suffer, did, in a peculiar manner, require, that the governour-general and council of Calcutta should conduct themselves with regard to its rulers and inhabitants, when it became dependent on th

company, on the most distinguished principles of good faith, equity, moderation, and mildness.

II.—That the rajah Bulwant Sing, late prince or zemindar of the province aforesaid, was a great lord of the Mogul empire, dependent on the same, through the vizier of the empire, the late Shuja ul Dowla, nabob of Oude; and the said Bulwant Sing, in the commencement of the English power, did attach himself to the cause of the English company; and the court of directors of the said company did acknowledge, in their letter of the 26th of May, 1768, that Bulwant Sing's joining us at the same time he did, was of *signal service*, and the stipulation in his favour was what he was justly entitled to:"—and they did commend "the care that had been taken (by the then presidency) of those that had shown their attachment to them (the company) during the war;" and they did finally express their hope and expectation in the words following: "The moderation and attention paid to those who have espoused our interests in this war, will *restore* our reputation in Hindostan, and that the Indian powers will be convinced, NO *breach of treaty will ever have our sanction*."

III.—That the rajah Bulwant Sing died on the 23d of August, 1770, and his son, Cheit Sing, succeeding to his rights and pretensions, the presidency of Calcutta (John Cartier, Esquire, being then president) did instruct Captain Gabriel Harper to procure a confirmation of the succession to his son Cheit Sing, "as it was of the utmost political import to the company's affairs; and that the young man ought not to consider the price to be paid to satisfy *the vizier's jealousy and avarice*." And they did further declare as follows: "the strong and inviolable attachment which subsisted betwixt the company and the father, makes us most readily interpose our good offices for the son." And the young rajah aforesaid having agreed, under the mediation of Captain Harper, to pay near two hundred thousand pounds as a gift to the said vizier, and to increase his tribute by near thirty thousand pounds annually a deed of confirmation was passed by the said vizier to the said rajah, and his heirs, by which he became a purchaser for valuable considerations of his right and inheritance in the zemindary aforesaid. In consequence of this grant, so by him purchased, the rajah was solemnly invested with the government in the city of Benares, "amidst the acclamations of a numerous people, and to the great satisfaction of all parties." And the said Harper, in his letter of the 8th October, 1770, giving an account of the investiture aforesaid, did express himself in these words: "I will leave the young rajah, and others, to acquaint you how I have conducted myself; only thus much let me say, that I have kept a strict eye not to diminish our national honour, disinterestedness and justice; which I will conclude has had a greater effect in securing to the company their vast possessions, than even the force of arms, however formidable, could do." The president of Calcutta testified his approbation of the said Harper's conduct in the strongest terms, that is in the following: "Your disinterestedness has been equally distinguishable as your abilities, and both do you the greatest honour.'

IV.—That the agreement between the rajah and nabob aforesaid, continued on both sides without any violation, under the sanction and guarantee of the East-India company, for three years; when Warren Hastings, Esquire, being then president, did propose a further confirmation of the said grant; and did, on the 12th of October, 1773, obtain a delegation for himself to be the person to negotiate the same; it being his opinion, as expressed in his report of October 4th, 1773, that the rajah was not only entitled to the inheritance of his zemindary by the grants through Captain Harper, but that the preceding treaty of Illiabad, though literally expressing no more than a security personal to Bulwant Sing, did, notwithstanding, in the true sense and import thereof, extend to his posterity; "and that it had been differently understood (that is not literally) by the company, and by this administration; and the vizier had *before* put it out of all dispute by the solemn act, passed in the rajah's favour on his succession to the zemindary."

V.—That the council, in their instructions to the said Governour Hastings, did empower him "to *renew*, in behalf of the Rajah Cheit Sing, the stipulation which was formerly made with the vizier, in consideration of his services in 1764;" and the government was accordingly settled on the rajah and his posterity, or to his heirs, on the same footing on which it was granted to his said father, excepting the addition aforesaid to the tribute; with an express provision, "that *no increase* shall ever hereafter be demanded." And the grant and stipulation aforesaid was further confirmed by the said Shuja ul Dowla, under the company's guarantee, by the most solemn and awful form of oath known in the Mahomedan religion,

inserted in the body of the deed or grant; and the said Warren Hastings, strongly impressed with the opinion of the propriety of protecting the rajah, and of the injustice, malice, and avarice of the said Shuja Dowla, and the known family enmity subsisting between him and the rajah, did declare, in his report to the council, as follows: "I am well convinced that the rajah's inheritance, and perhaps his life, are no longer safe than while he enjoys the company's protection, which is his due by the ties of justice, and the obligations of public faith."

VI.—That some time after the new confirmation aforesaid, that is to say, in the year 1774, the governour-general and council, which had been formed, and the members thereof appointed, by act of parliament, did obtain the assignment of the sovereignty paramount of the said government by treaty with the nabob of Oude; by which, although the supreme dominion was changed, the terms and the conditions of the tenure of the rajah of Benares remained; as the said nabob of Oude could transfer to the East-India company no other or greater estate than he himself possessed in or over the said zemindary. But to obviate any misconstruction on the subject, the said Warren Hastings did propose to the board, that whatever provision might in the said treaty be made for the interest of the company, the same should be "without an encroachment on the just rights of the rajah, or the *engagements actually subsisting with him*."

VII.—That the said Warren Hastings then having, or pretending to have, an extraordinary care of the interest of the rajah of Benares, did, on his transfer of the sovereignty, propose a new grant to be conveyed in new instruments to the said rajah, conferring upon him further privileges; namely, the addition of the sovereign rights of the mint, and of the right of criminal justice of life and death; and he the said Warren Hastings, as governour-general, did himself propose the resolutions for that purpose in council, in the following words, with remarks explanatory of the principles, upon which the grants aforesaid were made: namely,

Minute.

VIII.—"That the perpetual and *independent* possession of the zemindary of Benares, and its dependencies, be *confirmed* and guaranteed to the Rajah Cheit Sing and his heirs for ever, *subject only to the annual payment of the revenues hitherto paid to the late vizier*, amounting to Benares sicca rupees, 23,71,656,-12, to be disposed of as is expressed in the following article; *that no other demand be made on him either by the nabob of Oude, or this government; nor any kind of authority or jurisdiction be exercised by either within the districts assigned to him*." To which minute he, the said Warren Hastings, did subjoin the following observation in writing, and recorded therewith in the council books, that is to say; "*The rajah of Benares, from the situation of his country; which is a frontier to the provinces of Oude and Bahar, may be made a serviceable ally to the company, whenever their affairs shall require it. He has always been considered in this light, both by the company and the successive members of the late council; but to insure his attachment to the company, his interest must be connected with it, which cannot be better effected than by freeing him totally from the REMAINS of his present vassalage, under the guarantee and protection of the company; and at the same time guarding him against any apprehensions from this government, by thus pledging its faith that no encroachment shall ever be made on his rights by the company*." And the said Warren Hastings, on the 5th of July, 1775, did himself propose, among other articles of the treaty relative to this object, one of the following tenour: "that whilst the rajah shall continue faithful to these engagements, and punctual in his payments, and shall pay due obedience to the authority of this government, *no more demands* shall be made upon him by the honourable company of ANY KIND; or, any pretence whatsoever, shall any person be allowed to interfere with his authority, or to disturb the peace of his country." And the said article was, by the other members of the council, assented to without debate.

IX.—On transferring the rajah's tribute from the nabob to the company, the stipulation with the nabob was renewed on the proposition of the said Warren Hastings himself, and expressed in a yet more distinct manner; namely, "that no more demands shall be made upon him, by the honourable company, of any kind;" and the said Warren Hastings, in justification of his proposal of giving the rajah "a complete and uncontrolled authority over his zemindary," did enter on the council book the following reasons for investing him with the same; strongly indicating the situation in which he must be left under any other circumstances, whether under the nabob of Oude, or under the English, or under the double infa-

ence of both: "that the security of his person and possessions, from the company's protection, may be rated equal to many lacks of rupees, *which, though saved to him, are no loss to the government, on which he depends, being all articles of invisible expense;* in fees to the ministers and officers of the nabob; in the charges of a double establishment of vackeels to both governments; in presents and charges of accommodation to the nabob, during his residence at any place within the boundaries of his zemindary; in *the frauds, embezzlements, and oppressions exercised in the mint and cutwally;* beside the allowed profits of those officers, and the advantages, which every man *in occasional power, or in the credit of it, might make of the rajah's known weakness*, and the dread he stood in both of the displeasure of the nabob, *and the ill-will of individuals among the English, who were all considered, either in their present stations or connections, or the right of succession as members of the state of Bengal.* It would be scarce possible to enumerate all the inconveniences to which the rajah was liable *in his former situation*, or to estimate the precise effect which they produced on his revenue, and on the gross amount of his expense; but it may be easily conceived, that both were enormous, and of a nature the most likely to lessen the profits of government, instead of adding to them." And in justification of his proposal of giving the rajah the symbols of sovereignty in the power of life and death, and in the coining of money, as pledges of his *independence*, he states the deplorable situation of princes reduced to dependence on the vizier, or the company, and obliged to entertain an English resident at their court, in the following words: "It is proposed to receive the payment of his (the rajah's) rents at Patna, because that is the nearest provincial station, and because it would not frustrate the *intention of rendering the rajah independent.* If a resident was appointed to receive the money as it became due, at Benares, *such a resident* would unavoidably acquire an influence over the rajah, and over his country, *which would in effect render him master of both.* This consequence might not perhaps be brought completely to pass without a *struggle, and many appeals to council*, which, in a government constituted like this, cannot *fail to terminate against the rajah; and by the construction to which his opposition to the agent would be liable, might eventually draw on him severe restrictions, and reduce him to the mean and depraved state of a mere zemindar.*"

X.—That in order to satisfy the said rajah of the intentions of the company towards him, and of the true sense and construction of the grants to him, the said rajah, to be made, the governour-general (he the said Warren Hastings) and council did, on the 24th August, 1775, instruct Mr. Fowke, the resident at the rajah's court, in the following words: "It is proper to assure the rajah we do not mean to increase his tribute, but to require from him an exact sum. That, under the sovereignty of the company, we are determined to leave him the free and uncontrolled management of the internal government of his country, and the collection and regulation of the revenues, so long as he adheres to the terms of his engagement; and will never demand any augmentation of the annual tribute which may be fixed."

XI.—That the said Warren Hastings and the council-general, not being satisfied with having instructed the resident to make the representation aforesaid, to remove all suspicion that by the new grants any attempt should insidiously be made to change his former tenure, did resolve that a letter should be written by the governour-general himself to the rajah of Benares, to be delivered to Mr. Fowke the resident, together with his credentials; in which letter they declare "the board willing to continue the grant of the zemindary to him, in as *full and ample a manner as he possessed it from former sovereigns;* and on his paying the annual tribute, &c." And in explaining the reasons for granting to him the mint and criminal justice they inform him, that this is done in order "that he may possess an *uncontrolled and free authority* in the regulation and government of his zemindary."

XII.—That, on the 26th of February, 1776, the board and council did order that the proper instruments should be prepared for conveying to the rajah aforesaid, the government and criminal justice and mint of Benares, with its dependencies, "in the usual form; *expressing the conditions already resolved on in the several proceedings of the board.*" And on the same day a letter was written to the resident at Benares, signifying that they had ordered the proper instruments to be prepared, specifying the terms concerning the remittance of the rajah's tribute to Calcutta, as well as "*the several other conditions which had been already agreed to*; and that they should forward it to him, to be delivered to the rajah." And on the 20th of March, following, the board did again explain the terms of the said tribute in a letter to the court of directors; and did

add, "that a sannud (grant or patent) for his (Cheit Sing's) zemindary should be furnished him *on these and the conditions before agreed on.*"

XIII.—That during the course of the transactions aforesaid in council, and the various assurances given to the rajah and the court of directors, certain improper and fraudulent practices were used with regard to the symbols of investiture, which ought to have been given, and the form of the deeds, by which the said zemindary ought to have been granted; for it appears that the original deeds were signed by the board on the 4th September, 1775, and transmitted to Mr. Fowke, the resident at the rajah's court: and that, on the 20th of November following, the court of directors were acquainted by the said Warren Hastings and the council, that Rajah Cheit Sing had been invested with the sannud (charters or patent) for his zemindary, and the kellaut (or robes of investiture) in all the proper forms. But, on the 1st of October, 1775, the rajah did complain to the governour-general and council, that the kellaut (or robes) with which he was to be invested according to their order, "*is not of the same kind* as that which he received from the late vizier on the like occasion." In consequence of the said complaint, the board did, in their letter to the resident of the 11th of the same month, desire him "to make inquiry respecting the nature of the kellaut, and invest him with *one of the same sort* on the part of this government, instead of that which they formerly described to him." And it appears highly probable, that the instruments which accompanied the said robes of investiture were made in a manner comformable to the orders and directions of the board, and the conditions by them agreed to; as the rajah, who complained of the insufficiency of the robes, did make no complaint of the insufficiency of the instruments, or of any deviation in them from those he had formerly received from the vizier. But *a copy or duplicate of the said deeds or instruments, was in some manner surreptitiously disposed of, and withheld from the records of the company, and never was transmitted to the court of directors.*

XIV.—That several months after the said settlement and investiture, namely, on the 15th of April, 1776, the secretary informed the court that he had prepared a sannud, cabbolut, and pottah (that is, a patent, an agreement, and a rent roll) for Cheit Sing's zemindary; and the board ordered the same to be executed. But the resident, on receiving the same, did transmit the several objections made by the rajah thereto; and particularly to a clause in the patent, made in direct contradiction to the engagements of the council so solemnly and repeatedly given; by which clause the former patents are *declared to be null.* That on the representation aforesaid, on the 29th July, the secretary was ordered to prepare new and proper instruments, *omitting the clause declaring the former patents to be null,* and the said new patents were delivered to the rajah; and the others, which he objected to, as well as those which had been delivered to him originally, were returned to the presidency. But neither the first set of deeds, nor the fraudulent patent aforesaid, nor the new instruments made out on the complaint of the rajah, omitting the exceptional words, have been inserted in the records, although it was the particular duty of the said Warren Hastings that all transactions with the country powers should be faithfully entered; as well as to take care that all instruments transmitted to them, on the faith of the company, should be honestly, candidly, and fairly executed, according to the true intent and meaning of the engagements entered into on the part of the company: giving by the said complicated, artificial, and fraudulent management, as well as by his said omitting to record the said material document, strong reason to presume that he did even then meditate to make some evil use of the deeds which he thus withheld from the company, and which he did afterwards in reality make, when he found means and opportunity to effect his evil purpose.

PART II.

DESIGNS OF MR. HASTINGS TO RUIN THE RAJAH OF BENARES.

I.—That the tribute transferred to the company by the treaty with the nabob of Oude, being 250,000*l.* a year sterling, and upwards, without any deduction whatsoever, was paid monthly, with such punctual exactness, as had no parallel in the company's dealings with any of the native princes or with any subject zemindar, being the only one who never was in arrears; and, according to all appearance, a perfect harmony did prevail between the supreme council at Calcutta and the rajah. But though the rajah of Benares furnished no occasion of displeasure to the board, yet it

since appears that the said Warren Hastings did, at some time in the year 1777, conceive displeasure against him. In that year, he the said Warren Hastings, retracted his own act of resignation of his office, made to the court of directors through his agent Mr. Macleane; and, calling in the aid of the military to support him in his authority, brought the divisions of the government, according to his own expression, "to an extremity bordering on civil violence." This extremity he attributes, in a narrative by him transmitted to the court of directors, and printed, not to his own fraud and prevarication, but to what he calls "an attempt to wrest from him his authority;" and in the said narrative he pretends that the rajah of Benares had deputed an agent with an express commission to his opponent Sir John Clavering.—This fact, if it had been true (which is not proved) was in no sort criminal or offensive to the company's government; but was first sight nothing more than a proper mark of duty and respect to the supposed succession of office. Nor is it possible to conceive in what manner it could offend the said Warren Hastings, if he did not imagine that the express commission, to which in the said narrative he refers, might relate to the discovery to Sir John Clavering of some practice, which he might wish to conceal; the said Clavering, whom he styles "*his opponent*," having been engaged, in obedience to the company's express orders, in the discovery of sundry peculations, and other evil practices, charged upon the said Hastings. But although, at the time of the said pretended deputation, he dissembled his resentment, it appears to have rankled in his mind, and that he never forgave it, of whatever nature it might have been (the same never having been by him explained); and some years after he recorded it in his justification of his oppressive conduct towards the rajah, urging the same with great virulence and asperity as a proof of presumption of his the said rajah's disaffection to the company's government; and by his subsequent acts, he seems from the first to have resolved, when opportunity should occur, on a severe revenge.

II.—That having obtained, in his casting vote, a majority in council on the death of Sir John Clavering and Mr. Monson, he did suddenly, and without any previous general communication with the members of the board, by a minute of consultation of the 9th of July, 1778, make an extraordinary demand, namely, "that the rajah of Benares should *consent* to the establishment of three regular battalions of sepoys, *to be raised and maintained at his own expense;*" and the said expense was estimated at between fifty and sixty thousand pounds sterling.

III.—That the said requisition did suppose the *consent* of the rajah, the very word being inserted in the body of his, the said Warren Hastings's minute; and the same was agreed to, though with some doubts on the parts of two of his colleagues, Mr. Francis and Mr. Wheler, concerning the right of making the same, even worded as it was. But Mr. Francis and Mr. Wheler soon after finding that the rajah was much alarmed by this departure from the treaty, the requisition aforesaid was strenuously opposed by them. The said Hastings did, notwithstanding this opposition, persevere, and by his casting vote alone did carry the said unjust and oppressive demand. The rajah submitted, after some murmuring and remonstrance, to pay the sum required; but on the express condition (as has been frequently asserted by him to the said Warren Hastings, without any contradiction) that the exaction should continue *but for one year, and should not be drawn into precedent.* He also requested that the extraordinary demand should be paid along with the instalments of his monthly tribute: but although the said Warren Hastings did not so much as pretend that the instant payment was at all necessary, and though he was urged by his before-mentioned colleagues to moderate his proceedings, he did insist upon immediate payment of the whole: and did deliver his demand in proud and insulting language, wholly unfit for a governour of a civilized nation to use towards eminent persons in alliance with, and in honourable and free dependence upon, its government; and did support the same with arguments full of unwarrantable passion, and with references to reports affecting merely his own personal power and consideration, which reports were not proved, nor attempted to be proved; and, if proved furnishing reasons insufficient for his purpose, and indecent in any public proceedings. That the said Hastings did cause the said sums of money to be rigorously exacted, although no such regular battalions as he pretended to establish as a colour for his demands on the rajah were then raised, or any steps taken towards raising them. And when the said rajah pleaded his inability to pay the whole sum at once, he, the said Hastings, persevering in his said outrageous and violent demeanour, did order the resident to wait on the rajah forthwith, and, "demand of him in person, and by writing, the full payment in specie to be made to him within

five days of such demand; and to declare to him, in the name of this government, that his evading or neglecting to accomplish the payment thereof within that space of time should be deemed *equivalent of an absolute refusal;* and in case of noncompliance with this (the resident's) demand, *we peremptorily enjoin you to refrain from all further intercourse with him:*" the said Hastings appearing by all his proceedings, to be more disposed to bring on a quarrel with the prince of Benares, than to provide money for any public service.

IV.—That the said demand was complied with, and the whole thereof paid on the 10th of October, that year. And the said rajah did write to the said Hastings a letter, in order to mitigate and molify him, declaring to the said Hastings, that his sole reliance was on him, "and that in every instance he depended on his faith, religion, promises, and actions." But he, the said Warren Hastings, as if the being reminded of his faith and promises were an incentive to him to violate the same, although he had agreed that his demand should not be drawn into precedent, and the payment of the 50,000*l.* aforesaid should continue only for one year, did, the very day after he had received the letter aforesaid, renew a demand of the same nature, and on the very same pretence, this year, even less plausible than the former, of three battalions *to be* raised. The rajah, on being informed of this requisition, did remind the said Warren Hastings that he engaged, in the last year, that but one payment should be made, and that he should not be called upon in future; and pleading inability to discharge the new demand, declared himself in the following words to the said Warren Hastings:—"I am therefore hopeful you will be kindly pleased to excuse me the five lacks now demanded, and that nothing may be demanded of me beyond the amount expressed in the pottah."

V.—That on the day after the receipt of this letter, that is, on the 28th August, 1779, he, the said Warren Hastings, made a reply to the said letter; and without any remark whatsoever on the allegation of the rajah, stating to him his engagement, that he, the said rajah, should not be called upon in future, he says, "I now repeat my demand, that you do, on the receipt of this, without evasion or delay, pay, the five lacks of rupees into the hands of Mr. Thomas Graham, who has orders to receive it from you; and in case of your refusal, to summon the two battalions of sepoys, under the command of Major Camac, to Benares, that measures may be taken to oblige you to a compliance: and, in this case, the whole expense of the corps, from the time of its march, will fall on you."

VI.—That the said rajah did a second and a third time represent to the said Warren Hastings, that he had broke his promise, and the said Hastings did in no manner deny the same; but did in contempt thereof, as well as of the original treaty between the company and the rajah, order two battalions of troops to march into his territories, and in a manner the most harsh, insulting, and despotic, as if to provoke that prince to some act of resistance, did compel him to the payment of the said second unjust demand; and did extort also the sum of 2,000*l.* on pretence of the charge of the troops employed to coerce him.

VII.—That the third year, that is to say, in the year 1780, the same demand was, with the same menaces, renewed; and did, as before, produce several humble remonstrances and submissive complaints, which the said Hastings did always treat as crimes and offences of the highest order: and although in the regular subsidy or tribute, which was monthly payable by treaty, fifty days of grace were allowed on each payment, and after the expiration of the said fifty days, one quarter per cent. only was provided as a penalty, he, the said Warren Hastings, on some short delay of payment of his third arbitrary and illegal demand, did presume, of his own authority, to impose a fine or mulct of 10,000*l.* on the said rajah; and though it does not appear whether or no the same was actually levied, the said threat was soon after followed by an order from the said Hastings, for the march of troops into the country of Benares, as in the preceding year.

VIII.—That these violent and insulting measures failing to provoke the rajah, and he having paid up the whole demand, the said Warren Hastings, being resolved to drive him to extremities, did make on the said rajah a sudden demand, over and above the ordinary tribute or subsidy of 260,000*l.* per annum, and over and above the 50,000*l.* extraordinary, to provide a body of cavalry for the service of the Bengal government.

IX.—The demand, as expressed in the minute of consultation, and in the public instructions of the board to the resident to make the

requisition, is, "for such part of the cavalry entertained in his service as he can spare;" and the demand is in this, and in no other manner described by the governour-general and council in their letter to the court of directors. But in a narrative of the said Warren Hastings, addressed to Edward Wheler, Esquire, it appears, that upon the rajah's making difficulties, according to the representation of the said Hastings, relative to the said requisition, the correspondence concerning which the said Hastings hath fraudulently suppressed, he, the said Hastings, instead of adhering to the requisition of such cavalry *as the rajah could spare*, and which was all that by the order of council he was authorized to make, did, of his own private and arbitrary authority, in some letter which he hath suppressed, instruct the resident, Markham, to make a peremptory demand for 2000 cavalry, which he well knew to be more than the rajah's finances could support, estimating the provision for the same at 96,000*l.* a year at the lowest, though the expense of the same would probably have been much more: which extravagant demand the said Hastings could only have made in hopes of provoking the rajah to some imprudent measure, or passionate remonstrance. And this arbitrary demand of cavalry was made, and peremptorily insisted on, although in the original treaty with the said rajah, it was left entirely optional whether or not he should keep up any cavalry at all: and in the minute of consultation it was expressly mentioned to be thus optional; and for whatsoever cavalry he, the said rajah, should furnish, he should be paid fifteen rupees per month for each private, and so in proportion for officers; yet the demand aforesaid was made without any offer whatsoever of providing the said payment according to treaty.

X.—That the said Hastings did soon after, but upon what ground does not appear by any minute of council, or from any correspondence contained in his narrative, reduce the demand to fifteen hundred, and afterwards to one thousand; by which he showed himself to be sensible of the extravagance of his first requisition.

XI.—That in consequence of these requisitions, as he asserts in his narrative aforesaid, the rajah "did offer two hundred and fifty horse, but sent none." But the said Hastings doth not accompany his said narrative with any voucher or document whatever; and therefore the account given by the rajah, and delivered to the said Warren Hastings himself, inserted by the said Warren Hastings himself in his narrative, and in no part thereof attempted to be impeached, is more worthy of credit; that is to say,

"With respect to the horse, you desired me in your letter to inform you what number I could afford to station with you. I sent you a particular account of all that were in my service, amounting to one thousand three hundred horse, of which several were stationed at distant places; but I received no answer to this. Mr. Markham delivered me an order to prepare a thousand horse. In compliance with your wishes, I collected five hundred horse, and a substitute for the remainder, five hundred burkundasses [matchlock men], of which I sent you information; and I told Mr. Markham that they were ready to go to whatever place they should be sent. No answer, however, came from you on this head, and I remained astonished at the cause of it. Repeatedly I asked Mr. Markham about an answer to my letter about the horse; but he told me, that he did not know the reason of no answer having been sent. I remained astonished."

XII.—That the said Hastings is guilty of an high offence, in not giving an answer to letters of such importance, and in concealing the said letters from the court of directors, as well as much of his correspondence with the residents; and more particularly in not directing to what place the cavalry and matchlock men aforesaid should be sent, when the rajah had declared they were ready to go to whatever service should be destined for them, and afterwards in maliciously accusing the rajah for not having sent the same.

XIII.—That, on the 3d of February, 1781, a new demand for the support of the three fictitious battalions of sepoys aforesaid was made by the said Warren Hastings: but, whilst the rajah was paying by instalments the said arbitrary demand, the said rajah was alarmed with some intelligence of secret projects on foot for his ruin; and being well apprized of the malicious and revengeful temper of the said Hastings, in order to pacify him, if possible, offered to redeem himself by a large ransom, to the amount of two hundred thousand pounds sterling, to be paid for the use of the company. And it appears that the said alarm was far from groundless; for Major Palmer, one of the secret and confidential agents of the said Hastings, hath sworn, on the 4th of December, 1781, at the desire of the said

Warren Hastings, before Sir Elijah Impey, to the following effect: that is to say, "that the said Warren Hastings had told him, the said Palmer, that he, the said Hastings, had rejected the offer of two hundred thousand pounds made by the rajah of Benares for the public service: and that he was resolved to *convert the faults committed by the rajah into a public benefit*, and would exact the sum of 500,000*l.* as a punishment for his breach of engagements with the government of Bengal, and acts of misconduct in his zemindary: and, if the rajah should absolutely refuse the demand, that he would deprive him of his zemindary, or transfer the sovereignty thereof to the nabob of Oude."

XIV.—And Mr. Anderson, in his declaration from Scindia's camp, on the 4th of January, 1782, did also, at the desire of Mr. Hastings, depose (though not on oath) concerning a conversation between him and the said Hastings (but mentioning neither the time nor place where the same was held); in which conversation, after reciting the allegations of the said Hastings relative to several particulars of the delay and backwardness of the rajah in paying the aforesaid extra demand, and his resolution to exact from the rajah "a considerable sum of money to the relief of the company's exigencies," he proceeds in the following words: "that if he (the rajah) consented, you (the said Warren Hastings) were desirous of *establishing his possessions on the most permanent and eligible footing*; but, if he refused, you had it in your power to *raise a large sum* for the company, by accepting an offer which had been made for his districts by the vizier." And the said Anderson, in the declaration aforesaid, made at the request of the said Hastings, and addressed to him, expressed himself as follows: "that you told me you had communicated our designs to Mr Wheler (his only remaining colleague); and I believe, but I do not positively recollect, you said he concurred in them." But no trace of any such communication or concurrence did, at the time referred to, or at any time ever after, appear on the consultations, as it ought to have done: and the said Hastings is criminal for having omitted to enter and record the proceeding. That the said Wheler did also declare, but a considerable time after the date of the conversations aforesaid that, "on the eve of the governour-general's departure, the said Hastings had told him, that the rajah's offences (not stating what offences, he having paid up all the demands, ordinary and extraordinary) *were declared* to require early punishment; and in his *wealth was great, and the company's exigencies pressing*, it was thought a measure of policy and justice to exact from him a large pecuniary mulct for their relief. The sum to which the governour declared his resolution to extend the fine, was forty *or* fifty lacks; his ability to pay it was stated as a fact, that could not admit of a doubt; and the two alternatives, on which the governour declared himself to have resolved, were, to the best of my recollection, either a removal from his zemindary entirely; or, by taking immediate possession of all his forts, to obtain out of the treasure deposited in them the above sum for the company."

XV.—That, in the declaration of the said Wheler, the time of the conversation aforesaid is stated to be on the eve of the governour's departure, and then said to be confidential; nor is it said or insinuated that he knew or ever heard thereof at a more early period; though it appears by Major Palmer's affidavit, that the design of taking, not four *or* five, but absolutely five hundred thousand pounds for the rajah, was communicated to him as early as the month of June. And it does not appear by the declarations of the said Wheler, he did ever casually or officially approve of the measure; which long concealment and late communication, time not being allowed to his colleague to consider the nature and consequences of such a project, or to advise any precaution concerning the same, is a high misdemeanour.

XVI.—That the said Hastings, having formed a resolution to execute one of the three violent and arbitrary resolutions aforesaid, namely, to sell the company's sovereignty over Benares to the nabob of Oude; or to dispossess the rajah of his territories; or to seize upon his forts, and to plunder them of the treasure therein contained, to the amount of four or five hundred thousand pounds, did reject the offer of two hundred thousand pounds, tendered by the said rajah for his redemption from the injuries which he had discovered that the said Hastings had clandestinely meditated against him, although the sum aforesaid would have been a considerable and seasonable acquisition at that time; the said Hastings being determined, at a critical period, to risk the existence of the British empire, rather than fail in the gratification of his revenge against the said rajah.

XVII.—That the first of his three institut-

ed projects, namely, the depriving the rajah of his territories, was by himself considered as a measure likely to be productive of much odium to the British government; he having declared, whatever opinions he might entertain of its justice, "that it would have an appearance of *severity*; and might furnish grounds *unfavourable to the credit of our government, and to his own reputation*, from the natural influence which every *act of rigour*, exercised in the persons of men in *elevated situations*, is apt to impress on those who are too remote from the scene of action to judge, by any evidence of the facts themselves, of their motives or propriety." And the second attempt, the sum of money which he aimed at by attacking the fortresses of the rajah, and plundering them of the treasure supposed to be there secured besides the obvious uncertainty of acquiring what was thus sought, would be liable to the same imputations with the former. And with regard to the third project, namely, the sale of the company's sovereignty to the nabob of Oude and his having actually received proposals for the same, it was an high offence to the company, as presuming, without their authority or consent, to put up to sale their sovereign rights; and particularly to put them up to sale to that very person, against whom the independence of the said province had been declared by the governour-general and council to be necessary, as a barrier for the security of the other provinces, in case of a future rupture with him. It was an heinous injury to the said rajah, to attempt to change his relation without his consent, especially on account of the person to whom he was to be made over for money, by reason of the known enmity subsisting between his family and that of the nabob, who was to be the purchaser; and it was a grievous outrage on the innocent inhabitants of the zemindary of Benares, to propose putting them under a person long before described by himself to the court of directors, "to want the qualities of the head and heart requisite for his station;" and a letter from the British resident at Oude, transmitted to the said court, represents him "to have wholly lost, by his *oppressions*, the confidence and affections of his own subjects;" and whose distresses, and the known disorders in his government, he, the said Hastings, did attribute solely to his own bad conduct and evil character; admitting also in a letter written to Edward Wheler, Esq. and transmitted to the court of directors, "that many circumstances did favour suspicion of his (the nabob's) fidelity to the English interest, the nabob being surrounded by men base in their characters, and improvident in their understandings, his favourites, and his companions of his looser hours. These had every cause to dread the effect of my influence on theirs; and both these, and the relations of the family, whose views of consequence and power were intercepted by our participation in the administration of his affairs, entertained a mortal hatred to our nation, and openly avowed it." And the said Hastings was well aware, that in case the nabob, by him described in the manner aforesaid, on making such purchase, should continue to observe the terms of his father's original covenants and engagements with the rajah, and should pay the company the only tribute which he could lawfully exact from the said rajah, it was impossible that he could, for the mere naked and unprofitable rights of a sovereignty paramount, afford to offer so great a sum as the rajah did offer to the said Hastings for his redemption from oppression. Such an acquisition to the nabob (while he kept his faith) could not possibly be of any advantage whatever to him; and that, therefore, if a great sum was to be paid by the nabob of Oude, it must be for the purpose of oppression, and violation of public faith, to be perpetrated in the person of the said nabob, to an extent and in a manner, which the said Hastings was then apprehensive he could not justify to the court of directors, as his own personal act.

PART III.

EXPULSION OF THE RAJAH OF BENARES

I.—THAT the said Warren Hastings, being resolved on the ruin of the rajah aforesaid, as a preliminary step thereto, did, against the express orders of the court of directors, remove Francis Fowke, Esq. the company's resident at the city of Benares, without any complaint, or pretence of complaint whatsoever, but merely on his own declaration, that he must have, as a resident at Benares, a person of his own special and personal nomination and confidence, and not a man of the company's nomination; and in the place of the said Francis Fowke, thus illegally divested of his office, did appoint thereto another servant of the company of his own choice.

II.—That soon after he had removed the company's resident, he prepared for a journey to the upper provinces, and particularly to

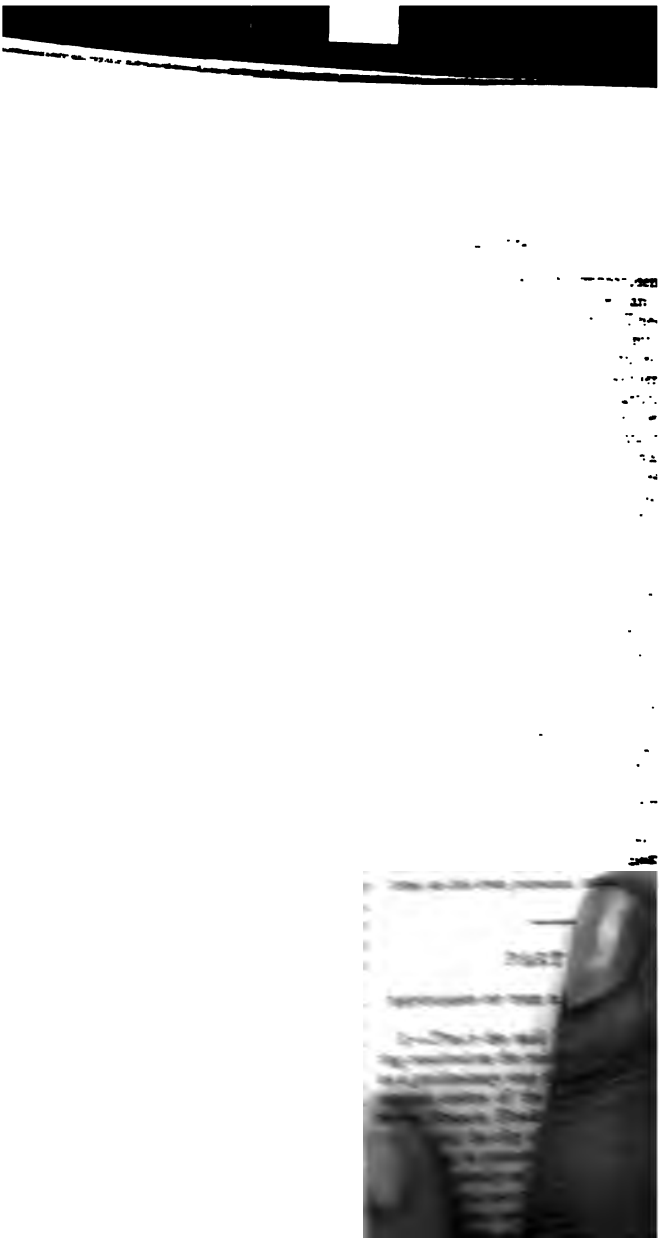
Benares, in order to execute the wicked and perfidious designs by him before meditated and contrived; and although he did communicate his purpose privately to such persons as he thought fit to intrust therewith, he did not enter any thing on the consultations to that purpose, or record the principles, real or pretended, on which he had resolved to act, nor did he state any guilt in the rajah, which he intended to punish, or charge him, the said rajah, with entertaining any hostile intentions, the effects of which were to be prevented by any strong measure; but, on the contrary, he did industriously conceal his real designs from the court of directors, and did fallaciously enter on the consultations a minute, declaratory to purposes wholly different therefrom, and which supposed nothing more than an amicable adjustment, founded on the treaties between the company and the rajah, investing himself by his said minute with "full power and authority to form *such* arrangements with the rajah of Benares, for the *better* government and management of his zemindary, and to perform such acts for the improvement of the interest, which the company possesses in it, as he shall *think fit and consonant to the mutual engagements subsisting between the company and the rajah;*" and for this and other purposes he did invest himself with the whole power of the council, giving to himself an authority, as if his acts had been the acts of the council itself; which, though a power of a dangerous, unwarrantable, and illegal extent, yet does plainly imply the following limits, namely that the acts done should be *arranged with* the rajah, that is, with *his consent;* and secondly, that they should be consonant to the actual engagements between the parties; and nothing appears in the minute conferring the said power, which did express or imply any authority for depriving the rajah of his government, or selling the sovereignty thereof to his hereditary enemy, or for the plunder of his fort treasures.

III.—That the said Warren Hastings, having formed the plans aforesaid for the ruin of the rajah, did set out on a journey to the city of Benares with a great train, but with a very small force, not much exceeding six companies of regular black soldiers, to perpetrate some of the unjust and violent acts by him meditated and resolved on, and the said Hastings was met, according to the usage of distinguished persons in that country, by the rajah of Benares with a very great attendance, both in boats and on shore, which attendence he did apparently intend as a mark of honour and observance to the place and person of the said Hastings, but which the said Hastings did afterwards groundlessly and maliciously represent as an indication of a design upon his life; and the said rajah came into the pinnace, in which the said Hastings was carried, and in a lowly and suppliant manner, alone, and without any guard or attendance whatsoever, intreated his favour; and being received with great sternness and arrogance, he did put his turban in the lap of the said Hastings, thereby signifying, that he abandoned his life and fortune to his disposal, and then departed; the said Hastings not apprehending, nor having any reason to apprehend, any violence whatsoever to his person.

IV.—That the said Hastings, in the utmost security and freedom from apprehension, did pursue his journey, and did arrive at the city of Benares on the 14th of August, 1781, some hours before the rajah, who, soon after his arrival, intended to pay him a visit of honour and respect at his quarters, but was by the said Hastings rudely and insolently forbid, until he should receive his permission. And the said Hastings, although he had previously determined on the ruin of the said rajah, in order to afford some colour of regularity and justice to his proceedings, did, on the day after his arrival, that is, on the 15th day of August, 1781, send to the rajah a charge in writing, which though informal and irregular, may be reduced to four articles: two general, and two particular; the first of the general, being, "that he (the rajah) had, by means of secret agents, endeavoured to excite disorders in the government, on which he depended:" the second, "that he had suffered the *daily* perpetration of robberies and murders, even in the streets of Benares, to the great and public scandal of the English name."

V.—That it appears, that the said Warren Hastings is guilty of an high offence, contrary to the fundamental principles of justice, in the said mode of charging misdemeanours without any specification of person, or place, or time, or act, or any offer of specification or proofs, by which the party charged may be enabled to refute the same, in order to unjustly load his reputation, and to prejudice him with regard to the articles more clearly specified.

VI.—That the two specified articles relate to certain delays: the first, with regard to payment of the sums of money unjustly extorted as aforesaid: and the second, the non-compli-



ance with a requisition of cavalry; which non-compliance the said Hastings (even if the said charges had been founded) did falsely, and in contradiction to all law, affirm and maintain (in his accusation against the rajah, and addressing himself to him) "to amount to a *direct* charge of disaffection and *infidelity* to the government on which you depend." And further proceeded as follows: "I therefore judged it proper to state them (the said charges) thus fully to you in writing, and to *require* your answer; and this I expect *immediately*." That the said Hastings, stating his pretended facts to amount to a charge of the nature (as he would have it understood) of high treason, and *therefore* calling for an *immediate* answer, did wilfully act against the rules of natural justice, which requires that a convenient time should be given to answer, proportioned to the greatness of the offence alleged, and the heavy penalties which attend it; and when he did arrogate to himself a right both to charge and to judge in his own person, he ought to have allowed the rajah full opportunity for conferring with his ministers, his doctors of law, and his accountants, on the facts charged, and on the criminality inferred in the said accusation of disloyalty and dissatisfaction, or offences of that quality.

VII.—That the said rajah did, under the pressure of the disadvantages aforesaid, deliver in, upon the very evening of the day of the charge a full, complete, and specific answer to the two articles therein specified; and did allege, and offer proof, that the whole of the extraordinary demands of the said Hastings had been actually long before paid and discharged; and did state a proper defence with regard to the cavalry, even supposing him bound (when he was not bound) to furnish any. And the said rajah did make a direct denial of the truth of the two *general* articles, and did explain himself on the same in as satisfactory a manner, and as fully as their nature could permit; offering to enter into immediate detail of the points in issue between him and the said Hastings, in the remarkable words following; "My enemies, with a view to my ruin, have made false representations to you. Now that, *happily for me*, you have yourself arrived at this place, you will be able to ascertain all the circumstances; first, relative to the horse; secondly, to my people going to Calcutta; and, thirdly, the dates of the receipts of the particular sums above mentioned. You will then know whether I have amused you with a false representation, or made a just report to you." And in the said answer, the said rajah complained, but in the most modest terms, of an injury to him of the most dangerous and criminal nature, in transactions of such moment, namely, his not receiving any answer to his letters and petitions; and concluded in the following words: "I have never swerved in the smallest degree from my duty to you. It remains with you to decide on all these matters. I am in every case your slave. What is just I have represented to you. May your prosperity increase!"

VIII.—That the said Warren Hastings was bound, by the essential principles of natural justice, to attend to the claim made by the rajah to a fair and impartial trial and inquiry into the matter of accusation brought against him by the said Hastings, at a time and place, which furnished all proper materials, and the presence of all necessary witnesses; but the said Hastings, instead of instituting the said inquiry, and granting trial, did receive an humble request for justice from a great prince as a fresh offence, and a personal insult to himself; and did conceive a violent passion of anger, and a strong resentment thereat, declaring, that he did consider the said answer as not only unsatisfactory in substance, but offensive in style. "This answer you will perceive to be not only unsatisfactory in substance but offensive in style; and less a vindication of himself than a recrimination on me. It expresses no concern for the causes of complaint contained in my letter, or desire to atone for them, nor the smallest intention to pursue a different line of conduct. An answer couched nearly in terms of defiance to requisitions of so serious a nature, I could not but consider as *a strong indication of that spirit of independency* which the rajah has for some years past assumed, and of which indeed I had early observed other manifest symtoms, both before and from the instant of my arrival."—Which representation is altogether, and in all parts thereof, groundless and injurious; as the substance of the answer is a justification proper to be pleaded, and the style, if in any thing exceptionable, it is in its extreme humility, resulting rather from an unmanly and abject spirit, than from any thing of an offensive liberty; but being received as disrespectful by the said Hastings, it abundantly indicates the tyrannical arrogance of the said Hastings, and the depression into which the natives are sunk under the British government.

IX.—That the said Warren Hastings, pre-

tending to have been much alarmed at the offensive language of the said rajah's defence, and at certain appearances of independency; which he had observed, not only on former occasions, but since his arrival at Benares (where he had been but little more than one day) and which appearances he never has specified in any one instance, did assert that he conceived himself indispensably obliged to adopt some decisive plan; and without any further inquiry or consultation (which appears) with any person, did, at ten o'clock of the very night on which he received the before-mentioned full and satisfactory, as well as submissive answer, send an order to the British resident (then being a public minister representing the British government at the court of the said rajah, and as such bound by the law of nations to respect the prince at whose court he was resident, and not to attempt any thing against his person or state; and who ought not therefore to have been chosen by the said Hastings, and compelled to serve in that business) that he should on the next morning arrest the said prince in his place, and keep him in his custody until further orders; which said order being conceived in the most peremptory terms, the rajah was put under arrest, with a guard of about thirty orderly sepoys, with their swords drawn; and the particulars thereof were reported to him as follows:

"HONOURABLE SIR,

"I this morning, in obedience to your orders of last night, proceeded with a few of my orderlies, accompanied by Lieutenant Stalker to Shewalla Ghaut, the present residence of Rajah Cheit Sing, and acquainted him it was your pleasure he should consider himself in arrest; that he should order his people to behave in a quiet and orderly manner, for that any attempt *to rescue would be attended with his own destruction. The rajah submitted quietly to the arrest*, and assured me, that whatever were your orders, he was ready implicitly to obey: he hoped that you would allow him a *subsistence*; but as for *his zemindary, his forts, and his treasure, he was ready to lay them at your feet, and his life if required.* He expressed himself much hurt at the ignominy, which he affirms must be the consequence of his confinement; and entreated me to return to you with the foregoing submission, hoping that you would make allowances for his youth and inexperience, and in consideration of his father's name release him from his confinement, as soon as he should prove the sincerity of his offers, and himself deserving of your compassion and forgiveness."

X.—That a further order was given, that every servant of the rajah should be disarmed, and a certain number only left to attend him, under a strict watch. In a quarter of an hour after this conversation, two companies of grenadier sepoys were sent to the rajah's place by the said Hastings; and the rajah being dismayed by this unexpected and unprovoked treatment, wrote two short letters or petitions to the said Hastings, under the greatest apparent dejection at the outrage and dishonour he had suffered in the eyes of his subjects, (all imprisonment of persons of rank being held in that country as a mark of indelible infamy; and he also in all probability considering his imprisonment as a prelude to the taking away his life) and in the first of the said petitions he did express himself in this manner: "Whatever may be your pleasure, do it with your own hands; I am your slave. What occasion can there be for a guard?" And in the other, "my honour was bestowed upon me by your highness. It depends on you alone to take away, or not to take away the country out of my hands. In case my honour is not left to me, how shall I be equal to the business of the government? Whoever, with his hands in a supplicating posture, is ready with his life and property, what necessity can there be for him to be dealt with in this way?"

XI.—That according to the said Hastings's narrative of this transaction, he, the said Hastings, on account of the apparent despondency, in which these letters were written, "thought it *necessary* to give him *some* encouragement;" and therefore wrote him a note of a few lines, carelessly and haughtily expressed, and little calculated to relieve him from his uneasiness, promising to send to him a person to explain particulars; and desiring him "to set his mind at rest, and not to conceive any terrour or apprehension." To which an answer of great humility and dejection was received.

XII.—That the report of the rajah's arrest did cause a great alarm in the city, in the suburbs of which the rajah's palace is situated, and in the adjacent country. The people were filled with dismay and anger at the outrage and indignity offered to a prince, under whose government they enjoyed much ease and happiness. Under these circumstances, the rajah desired leave to perform his ablutions; which

was refused, unless he sent for water, and performed that ceremony on the spot. This he did. And soon after, some of the people, who now began to surround the palace in considerable numbers, attempting to force their way into the palace, a British officer, commanding the guard upon the rajah, struck one of them with his sword. The people grew more and more irritated; but a message being sent from the rajah to appease them, they continued, on this interposition, for a while quiet. Then the rajah retired to a sort of stone pavilion or bastion, to perform his devotions, the guard of sepoys attending him in this act of religion. In the mean time, a person of the meanest station, called a chudbar, at best answering to our common beadle or tipstaff, was sent with a message (of what nature does not appear) from Mr. Hastings, or the resident, to the prince under arrest; and this base person, without regard to the rank of the prisoner, or to his then occupation, addressed him in a rude, boisterous manner, "passionately and insultingly," (as the said rajah has without contradiction asserted) "and, reviling him with a loud voice, gave both him and his people the vilest abuse;" and the manner and matter being observable and audible to the multitude, divided only by an open stone lattice from the scene within, a firing commenced from without the palace; on which the rajah again interposed, and did what in him lay to suppress the tumult, until an English officer striking him with a sword, and wounding him on the hand, the poeple no longer kept any measures, but broke through the inclosure of the palace. The insolent tipstaff was first cut down, and the multitude falling upon the sepoys and the English officers, the whole, or nearly the whole, were cut to pieces; the soldiers having been ordered to that service without any charges for their pieces. And in this tumult the rajah, being justly fearful of falling into the hands of the said Hastings, did make his escape over the walls of his palace by means of a rope, formed of his turban tied together, into a boat upon the river, and from thence into a place of security; abandoning many of his family to the discretion of the said Hastings, who did cause the said palace to be occupied by a company of soldiers after the flight of the rajah.

XIII.—That the rajah, as soon as he had arrived at a place of refuge, did, on the very day of his flight send a suppliant letter to the said Hastings, filled with expressions of concern (affirmed by the said Hastings to be slight expressions) for what had happened, and professions (said by the said Hastings to be indefinite and unapplied) of fidelity: but the said Warren Hastings, though bound by his duty to hear the said rajah, and to prevent extremities if possible, being filled with insolence and malice, did not think it "*becoming* of him to make any reply to it; and that he *thought* he ordered the bearer of the letter to be told that it *required none*."

XIV.—That this letter of submission having been received, the said rajah, not discouraged or provoked from using every attempt towards peace and reconciliation, did again apply, on the very morning following, to Richard Johnson, Esquire, for his interposition, but to no purpose; and did likewise, with as little effect, send a message to Cantû Babu, native steward and confidential agent of the said Hastings, which was afterwards reduced into writing, "to exculpate himself from any concern in what had passed, and to profess his obedience to his *will* (Hastings's) in *whatever* way he should dictate." But the said Hastings, for several false and contradictory reasons by him assigned, did not take any advantage of the said opening, attributing the same to artifice in order to gain time; but instead of accepting the said submission, he did resolve upon flight from the city of Benares, and did suddenly fly therefrom in great confusion.

XV.—That the said Hastings did persevere in his resolutions not to listen to any submission, or offer of accommodation whatsoever, though several were afterwards made through almost every person who might be supposed to have influence with him, but did cause the rajah's troops to be attacked and fallen upon, though they only acted on the defensive (as the rajah has without contradiction asserted) and thereby, and by his preceding refusal of propositions of the same nature, and by other his perfidious, unjust, and tyrannical acts by him perpetrated and done, and by his total improvidence in not taking any one rational security whatsoever against the inevitable consequences of those acts, did make himself guilty of all the mutual slaughter and devastation which ensued, as well as, in his opinion, of the imminent danger of the total subversion of the British power in India, by the risk of his own person, which he asserts that it did run; as also, "that it ought not to be thought that he attributed too much consequence to his personal safety, when he supposed *the fate of the British empire in India connected with it*; and that, mean as its substance may be, its ac-

cidental qualities were equivalent to those, which, like the characters of a talisman in the Arabian mythology, formed the *essence* of the state itself, representation, title, and the *estimate* of the public opinion. That had he fallen, such a stroke would be universally considered as decisive of the national fate. Every state round it would have started into arms against it: and *every subject of its own dominion would, according to their several abilities, have become its enemy.*" And that several he knew, and has declared, that though the said stroke was not struck, great convulsions did actually ensue from his proceedings. "That half the province of Oude was in a state of as complete rebellion as that of Benares:" and that invasions, tumults, and insurections were occasioned thereby in various other parts.

XVI.—That the said Warren Hastings, after he had collected his forces from all parts, did, with little difficulty or bloodshed, subsequent to that time, on the part of his troops, and in a few days, entirely reduce the said province of Benares; and did, after the said short and little resisted hostility, and cold blood, issue an order for burning a certain town, in which he accused the people at large of having killed, "upon what provocation he knows not," certain wounded sepoys, who were prisoners; which order, being *generally* given, when it was his duty to have made some inquiry concerning particular offenders, but which he did never make or cause to be made, was cruel, inhuman, and tended to the destruction of the revenues of the company; and that this, and other acts of devastation did cause the loss of two months of the collections.

XVII.—That the said Warren Hastings did not only refuse the submissions of the said rajah, which were frequently repeated through various persons after he had left Benares and even after the defeat of certain of the company's forces, but did proscribe and except him from the pardons which he issued, after he had satisfied his vengeance on the province of Benares.

XVIII.—That the said Warren Hastings, did send to a certain castle called Bidgigur, the residence of a person of high rank, called Panna, the mother of the rajah of Benares, with whom his wife, a woman described by the said Hastings "to be of an amiable character," and all the other women of the rajah's family, and the survivors of the family of his father Bulwant Sing, did then reside, a body of troops to dispossess them of her said residence, and to seize upon her money and effects although she did not stand, even by himself, accused of any offence whatsoever; pretending, but not proving, and not attempting to prove *then* nor since, that the treasures therein contained were the property of the rajah, and not her own; and did, in order to stimulate the British soldiery to rapine and outrage, issue to them several barbarous orders, contrary to the practice of civilized nations, relative to their property, moveable and immoveable, attended with unworthy and unbecoming menaces, highly offensive to the manners of the East, and the particular respect there paid to the female sex; which letters and orders as well as the letters which he had received from the officers concerned, the said Hastings did unlawfully suppress, until forced by the disputes between him and the said officers to discover the same; and the said orders were as follow:

"I am this instant favoured with yours of yesterday. Mine of the same date (22d October, 1781) has before this time acquainted you with my resolutions and sentiments respecting the rannee (the mother of the Rajah Cheit Sing); I think every demand she has made to you, except that of safety and respect for her person, is unreasonable. If the reports brought to me are true, *your rejecting her offers, or any negotiations with her*, would soon obtain you possession of the fort upon your own terms. I apprehend that she will contrive *to defraud the captors of a considerable part of the booty by being suffered to retire without examination. But this is your consideration and not mine. I should be very sorry that your officers and soldiers lost ANY PART of the reward to which they are so well entitled;* bnt I cannot make any objection, as you must be the best judge of the expediency of the *promised* indulgence to the rannee. What you have engaged for, I will certainly ratify; but as to permitting the rannee to hold the purgunnah of Hurluk, or any other in the zemindary, without being subject to the authority of the zemindar, or any lands whatever, *or indeed making any conditions with her for a provision, I will never consent to it.*" And in another letter to the same person, dated Benares, 3d of November, 1781, in which he the said Hastings consents that the said woman of distinction should be allowed to evacuate the place, and to receive protection, he did express himself as follows: "I am willing to grant her now the same conditions to which I at first consented; provided that she delivers

into your possession, within twenty-four hours from the time of receiving your message, the fort of Bidzigurr, with the treasure and effects lodged therein by Cheit Sing, or any of his adherents, with the reserve only, as above mentioned, of such articles *as you shall think necessary to her sex and condition*, or as you shall be disposed, *of yourself to indulge her with*. If she complies, as I expect she will, it will be your part to secure the fort, and the property it contains, *for the benefit of yourself and detachment*. I have only further to request, that you will grant an escort, if Panna should require it, to conduct her here, or wherever she may choose to retire to. But should she refuse to execute the promise she has made, *or delay it beyond the term of twenty-four hours*, it is my *positive* injunction that you immediately put a stop to any further intercourse or negotiation with her, and on no pretext renew it. If she disappoints *or trifles* with me, after I have subjected my *duan* to the disgrace of returning inaffectually, and of course myself to discredit, I shall consider it as a *wanton affront and indignity, which I can never forgive*, nor will I grant her any conditions whatever, but leave her exposed to *those dangers* which she has chosen to risk, rather than trust to the clemency and generosity of our government. I think *she cannot be ignorant of these consequences, and will not venture to incur them;* and it is for this reason I place a dependency on her offers, and have consented to send my duan to her."

XIX.—That the castle aforesaid surrendered upon terms of safety, and on express condition of not attempting to search their persons, the woman of rank aforesaid, her female relations and female dependants, to the number, of three hundred, besides children, evacuated the said castle; but the spirit of rapacity being excited by the letters and other proceedings of the said Hastings, the capitulation was shamefully and outrageously broken, and in despite of the endeavours of the commanding officer, the said woman of high condition, and her female dependents, friends, and servants, were plundered of their effects they carried with them, and which were reserved to them in the capitulation of their fortress, and in their persons were otherwise rudely and inhumanly dealt with by the licentious followers of the camp; for which outrages, represented to the said Hastings with great concern by the commanding officer, Major Popham, he, the said Hastings, did afterwards recommend a late and fruitless redress.

XX.—That the governour-general Warren Hastings, in exciting the hopes of the military by declaring them *well entitled to the plunder* of the fortress aforesaid, the residence of the mother and other women of the rajah of Benares, and by wishing the troops to secure the same for their own benefit, did advise and act in direct contradiction to the orders of the court of directors, and to his own opinion of his public duty, as well as to the truth and reality thereof; he having some years before entered in writing the declaration which follows; "The very idea of *prize money* suggests to my remembrance *the former disorders which arose in our army from this source, and had almost proved fatal to it*. Of this circumstance you must be sufficiently apprized, and of the necessity for discouraging every expectation of this kind among the troops—*it is to be avoided like poison*. The bad effects of asimilar measure were but too plainly felt in a former period, and our honourable masters did not fail on that occasion to reprobate with their censure, in the most severe terms, a practice which they regarded as the source of infinite evils; and which, if established, would in their judgment, necessarily bring corruption and ruin on their army."

XXI.—That the said Hastings, after he had given the licence aforesaid, and that in consequence thereof the booty found in the castle, to the amount of 23,27,813 current rupees, was distributed among the soldiers employed in its reduction, the said Hastings did retract his declaration of right, and his permission to the soldiers to appropriate to themselves the plunder, and endeavoured, by various devices and artifices, to explain the same away, and to recover the spoil aforesaid for the use of the company: and wholly failing in his attempts to resume, by a breach of faith with the soldiers, what he had unlawfully disposed of by a breach of duty to his constituents, he attempted to obtain the same as a loan, in which attempt he also failed; and the aforesaid money being the only part of the treasures belonging to the rajah, or any of his family, that had been found, he was altogether frustrated in the acquisition of every part of that dishonourable object, which alone he pretended to and pursued through a long series of acts of injustice, inhumanity, oppression, violence, and bloodshed, at the hazard of his person and reputation, and in his own opinion, at the risk of the total subversion of the British empire.

XXII.—That the said Warren Hastings, after the commission of the offences aforesaid, being well aware that he should be called to an account for the same, did, by the evil counsel and agency of Sir Elijah Impey, knight, his majesty's chief justice, who was then out of the limits of his jurisdiction, cause to be taken to Benares, before, or by the said Sir Elijah Impey, and through the intervention, not of the company's interpreter, but of a certain private interpreter of his, the said Hastings's own appointment, and a dependent on him called Major Davy, several declarations and depositions by natives of Hindostan; and did also cause to be taken before the said Sir Elijah Impey several attestations in English made by British subjects, and which were afterwards transmitted to Calcutta, and laid before the council-general; some of which depositions were upon oath, some upon honour, and others neither upon *oath nor honour*, but all or most of which were of an irregular and irrelevant nature, and not fit or decent to be taken by a British magistrate, or to be transmitted to a British government.

XXIII.—That one of the said attestations (but not on oath) was made by a principal minister of the nabob of Oude, to whom the said Hastings had some time before proposed to sell the sovereignty of that very territory of Benares; and that one other attestation (not upon oath) was made by a native woman of distinction, whose son he, the said Hastings, did actually promote to the government of Benares, vacated by the unjust expulsion of the rajah aforesaid, and who, in her deposition, did declare, that she considered the expelled rajah as her enemy; and that he never did confer with her, or suffer her to be acquainted with any of his designs.

XXIV.—That besides the depositions of persons interested in the ruin of the rajah, others were made by persons who then received pensions from him, the said Hastings; and several of the affidavits were made by persons of mean condition, and so wholly illiterate as not to be able to write their names.

XXV.—That he, the said Hastings, did also cause to be examined by various proofs and essays, the result of which was delivered in upon honour, the quality of certain military stores, taken by the British troops from the said rajah of Benares; and upon the report that the same were of a good quality, and executed by persons conversant in the making of good military stores, although the cannon was stated by the same authority to be bad, he, the said Warren Hastings, from the report aforesaid, did maliciously, and contrary to the principles of natural and legal reason, infer, that the insurrection which had been raised by his own violence and oppression, and rendered for a time successful by his own improvidence, was the consequence of a premeditated design to overturn the British empire in India, and to exterminate therefrom the British nation; which design, if it had been true, the said Hastings might have known, or rationally conjectured, and ought to have provided against. And if the said Hastings had received any credible information of such design, it was his duty to lay the same before the council-board, and to state the same to the rajah when he was in a condition to have given an answer thereto, or to observe thereon; and not after he had proscribed and driven him from his dominions, to have inquired into offences to justify the previous infliction of punishment

XXVI.—That it does not appear, that in taking the said depositions there was any person present on the part of the rajah, to object to the competence, or credibility, or relevancy of any of the said affidavits, or other attestations, or to account, otherwise than as the said deponents did account, for any of the facts therein stated; nor were any copies thereof sent to the said rajah, although the company had a minister at the place of his residence, namely, in the camp of the Mahratta chief Scindia, so as to enable him to transmit to the company any matters which might induce or enable them to do justice to the injured prince aforesaid. And it does not appear that the said Hastings has ever produced any witness, letter, or other document, tending to prove that the said rajah ever did carry on any hostile negotiation whatever with any of those powers, with whom he was charged with a conspiracy against the company, previous to the period of the said Hastings having arrested him in his palace, although he, the said Hastings, had various agents at the courts of all those princes, and that a late principal agent, and near relation of a minister of one of them, the rajah of Berar, called Benarum Pundit was, at the time of the tumult at Benares, actually with the said Hastings, and the said Benarum Pundit was by him highly applauded for his zeal and fidelity, and was therefore by him rewarded with a large pension on those very revenues which he had

taken form the rajah Cheit Sing: and if such a conspiracy had previously existed, the Mahratta minister aforesaid must have known, and would have attested it.

XXVII.—That it appears that the said Warren Hastings, at the time that he formed his design of seizing upon the treasures of the rajah of Benares, and of deposing him, did not believe him guilty of that premeditated project for driving the English out of India, with which he afterwards thought fit to charge him, or that he was really guilty of any other great offence; because he has caused it to be deposed, that if the said rajah should pay the sum of money by him exacted, "he would settle his zemindary upon him on the most eligible footing." Whereas if he had conceived him to have entertained traitorous designs against the company, from whom he held his tributary estate, or had been otherwise guilty of such enormous offences as to make it necessary to take extraordinary methods for coercing him, it would not have been proper for him to settle upon such a traitor and criminal the zemindary of Benares, or any other territory, upon the most eligible, or upon any other footing whatever; whereby the said Hastings has, by his own stating, demonstrated, that the money intended to have been exacted was not as a punishment for crimes, but that the crimes were pretended for the purpose of exacting money.

XXVIII.—That the said Warren Hastings, in order to justify the acts of violence aforesaid to the court of directors, did assert certain false facts, known by him to be such, and did draw from them certain false and dangerous inferences, utterly subversive of the rights of the princes and subjects dependent on the British nation in India, contrary to the principles of all just government, and highly dishonourable to that of Great Britain; namely, that the "rajah of Benares was not a vassal or tributary prince; and that the deeds which passed between him and the board upon the transfer of the zemindary in 1775, were not to be understood to bear the quality and force of a treaty upon optional conditions between equal states; that the payments to be made by him were not a tribute, but a rent; and that the instruments by which his territories were conveyed to him, did not differ from common grants to zemindars, who were merely subjects; but that being nothing more than a common zemindar and mere subject, the company, holding the acknowledged rights of his former sovereign, held an absolute authority over him; that in the known relations of zemindar to the sovereign authority, or power delegated by it, he owed a personal allegiance, and an implicit and unreserved obedience to that authority, at the forfeiture of his zemindary, and even of his life and property." Whereas the said Hastings did well know, that whether the payments from the rajah were called *rent* or *tribute*, having been frequently by himself called the one and the other, and that of whatever nature the instruments, by which he held, might have been, he did not consider him as a common zemindar or landholder, but as far independent as a tributary prince could be; for he did assign as a reason for receiving his rent rather within the company's province than in his own capital, that it would not "frustrate the intention of rendering the rajah *independent*; that if a resident was appointed to receive the money as it became due at Benares, such a resident would unavoidably acquire an influence over the rajah and over his country, which would, in effect, render him the master of both; that this consequence might not perhaps be brought completely to pass without a struggle, and many appeals to the council, which, in a government constituted like this, cannot fail to terminate against the rajah, and by the construction, to which this opposition to the agent would be liable, might eventually draw on him severe restrictions, and end in *reducing him to the mean and depraved state of a zemindar*."

XXIX.—And the said Hastings, in the said minute of consultation, having enumerated the frauds, embezzlements, and oppressions, which would ensue from the rajah's being in the dependent state aforesaid; and having obviated all apprehensions from giving to him the implied symbols of dominion, did assert, "that, without such appearance, he would expect from every change of government additional demands to be made upon him; and would of course descend to all the arts of intrigue and concealment practised by other dependent rajahs, which would keep him indigent and weak, and eventually prove hurtful to the company. But that by proper encouragement and protection, he might prove a profitable dependent, an useful barrier, and even a powerful ally to the company. But that he would be neither, if the conditions of his connexion with the company were left open to future variations."

XXX.—That if the fact had been true, that the rajah of Benares was merely an eminent landholder, or any other subject, the wicked and dangerous doctrine aforesaid, namely, that he owed a personal allegiance, and an implicit and unreserved obedience to the sovereign authority, at the forfeiture of his zemindary, and even of his life and property, at the discretion of those, who held, or fully represented, the sovereign authority, doth leave security neither for life nor property to any persons residing under the company's protection; and that no such powers, nor any powers of that nature, had been delegated to the said Warren Hastings by any provisions of the act of parliament appointing a governor-general and council at Fort William in Bengal.

XXXI.—That the said Warren Hastings did at last advance another dangerous and pernicious principle, in justification of his violent, arbitrary, and iniquitous acting aforesaid; namely, "that if he had acted with an unwarrantable rigour, and even injustice, towards Cheit Sing, yet, first, if he did *believe* that extraordinary means were necessary, and those exerted with a strong hand, to preserve the company's interest from sinking under the accumulated weight that oppressed them; or, secondly, if he saw a *political necessity* for curbing the *overgrown* power of a great member of their dominion, and to make it contribute to the relief of their pressing exigencies; that his errour would be excuseable, as prompted by an excess of zeal for their (the company's) interest, operating with too strong a bias on his judgment; but that much stronger is the presumption that such facts are founded on just principles, than that they are the result of a misguided judgment." That the said doctrines are, in both the members thereof, subversive of all the principles of just government, by empowering a governour with delegated authority in the first case, on his own private *belief* concerning the necessities of the state, not to levy an impartial and equal rate of taxation suitable to the circumstances of the several members of the community, but to select any individual from the same as an object of arbitrary and unmeasured imposition; and, in the second case, enabling the same governour, on the same arbitrary principles, to determine whose property should be considered as overgrown, and to reduce the same at his pleasure.

PART IV.

SECOND REVOLUTION IN BENARES.

That the said Warren Hastings, after he had, in the manner aforesaid, unjustly and violently expelled the Rajah Cheit Sing, the lord or zemindar of Benares, from his said lordship or zemindary, did, of his own mere usurped authority, and without any communication with the other members of the council of Calcutta, appoint another person, of the name of Mehip Narrain, a descendant by the mother from the late Rajah Bulwant Sing, to the government of Benares; and, on account or pretence of his youth or inexperience (the said Mehip Narrain not being above twenty years old) did appoint his father Durbege Sing to act as his representative or administrator of affairs; but did give a controlling authority to the British resident over both, notwithstanding his declarations before mentioned, of the mischiefs likely to happen to the said country from the establishment of a resident, and his opinions since declared, in a letter to the court of directors, dated from this very place (Benares) the 1st of October, 1784, to the same or stronger effect, in case "agents are sent into the country, and armed with authority for the purposes of vengeance and corruption, *for to no other will they be applied*."

That the said Warren Hastings did, by the same usurped authority, entirely set aside all the agreements made between the late rajah and the company (which were real agreements with the state of Benares, in the person of the lord or prince thereof, and his heirs); and without any form of trial, inquisition, or other legal process, for forfeiture of the privileges of the people to be governed by magistrates of their own, and according to their natural laws, customs, and usages, did, contrary to the said agreement, separate the mint and the criminal justice from the said government, and did vest the mint in the British resident, and the criminal justice in a Mahomedan native of his own appointment; and did enhance the tribute to be paid from the province from 250,000*l.* annually, limited by treaty, or thereabouts, to three hundred and thirty thousand pounds for the first year, and to four hundred thousand for every year after; and did compel the administrator aforesaid (father to the rajah) to agree to the same; and did, by the same usurped authority, illegally impose, and cause to be

levied, sundry injudicious and oppressive duties on goods and merchandize, which did greatly impair the trade of the province, and threaten the utter ruin thereof; and did charge several pensions on the said revenues, of his own mere authority; and did send and keep up various bodies of the company's troops in the said country; and did perform sundry other acts, with regard to the said territory, in total subversion of the rights of the sovereign and the people, and in violation of the treaties and agreements aforesaid.

That the said Warren Hastings being absent, on account of ill health, from the presidency of Calcutta, at a place called Nia Serai, about forty miles distant therefrom, did carry on a secret correspondence with the resident at Benares; and, under colour that the instalments for the new rent or tribute were in arrear, did, of his own authority, make, in about one year, a second revolution in the government of the territory aforesaid; and did order and direct, that Durbege Sing aforesaid, father of the rajah, and administrator of his authority, should be deprived of his office and of his lands, and thrown into prison; and did threaten him with death, although he, the said Warren Hastings, had, at the time of making his new arrangement, declared himself sensible that the rent aforesaid might require abatement; although he was well apprized, that the administrator had been for two months of his administration in a weak and languid state of body, and wholly incapable of attending to the business of the collections; though a considerable drought had prevailed in the said province, and did consequently affect the regularity and produce of the collections; and though he had other sufficient reason to believe that the said administrator had not himself received, from the collectors of government, and the cultivators of the soil, the rent in arrear; yet he, the said Warren Hastings, without any known process, or recording any answer, defence, plea, exculpation, or apology from the party, or recording any other grounds of rigour against him, except the following paragraph of a letter from the resident, not only gave the order as aforesaid, but did afterwards, without laying any other or better ground before the council-general, persuade them to, and did procure from them, a confirmation of the aforesaid cruel and illegal proceedings, the correspondence concerning which had not been before communicated; he pleading his illness for not communicating the same, though that illness did not prevent him from carrying on correspondence concerning the deposition of the said administrator, and other important affairs in various places.

That in the letter to the council, requiring the confirmation of his acts aforesaid, the said Warren Hastings did not only propose the confinement of the said administrator at Benares, although by his imprisonment he must have been in a great measure disabled from recovering the balances due to him, and for the non-payment of which he was thus imprisoned, but did propose, as an alternative, his imprisonment at a remote fortress, out of the said territory, and in the company's provinces, called Chunar; desiring them to direct the resident at Benares "to exact from Baboo Dubbitzee Sing every rupee of the collections, which it shall appear that he has made, and not brought to account; and either to confine him at Benares, or to send him a prisoner to Chunar, and to keep him in confinement until he shall have discharged the whole of the amount due from him." And the said Warren Hastings did assign motives of passion and personal resentment for the said unjust and rigorous proceedings, as follows: "I feel myself, and may be allowed on such an occasion to acknowledge it, personally hurt at the ingratitude of this man, and at the discredit which his ill conduct has thrown on my appointment of him. He has deceived me; he has offended against the government, which I then represented." And as a further reason for depriving him of his Jaghire, (or salary out of land), he did insinuate in the said letter, but without giving or offering any proof, "that the said rajah had been guilty of *little and mean peculations*, although the appointments assigned to him had been sufficient to free him from the temptations thereto."

That it appears, as it might naturally have been expected, that the wife of the said administrator, the daughter of Bulwant Sing, the late rajah of Benares, and her son, the reigning rajah, did oppose, to the best of their power, but by what remonstrances, or upon what plea, the said Warren Hastings did never inform the court of directors, the deposition, imprisonment, and confiscation of the estates of the husband of the one, and the father of the other; but that the said Hastings, persisting in his malice, did declare to the said council as follows: "The opposition made by the rajah and the old rannee, both equally incapable of judging for *themselves*, does certainly originate from some secret influence, which ought to be checked by a decid-

ed and peremptory declaration of the authority of the board, and a denunciation of their displeasure at *their presumption*."

That the said Warren Hastings, not satisfied with the injuries done, and the insults and disgraces offered to the family aforesaid, did, in a manner unparalleled, except by an act of his own on another occasion, fraudulently and inhumanly endeavour to make the wife and son of the said administrator, contrary to the sentiments and the law of nature, the instruments of his oppressions; directing "that if they (the mother and son aforesaid) could be *induced* to yield the *appearance of a cheerful acquiescence* in the new arrangement, and to adopt it as a *measure formed with their participation*, it would be better than that it should be done by a declared act of compulsion, but that at all events it ought to be done."

That, in consequence of the pressing declarations aforesaid, the said Warren Hastings did, on his special recommendation, appoint, in opposition to the wishes and desires of the rajah and his mother, another person to the administration of his affairs, called Jagher Deo Seo.

That the company having sent express orders for the sending the resident by them before appointed to Benares, the said Warren Hastings did strongly oppose himself to the same; and did throw upon the person appointed by the company (Francis Fowke, Esquire) several strong but unspecified reflections and aspersions, contrary to the duty he owed to the company, and to the justice he owed to all its servants.

That the said resident being appointed by the votes of the rest of the council, in obedience to the reiterated orders of the company, and in despite of the opposition of the said Hastings, did proceed to Benares; and on the representation of the parties, and the submission of the accounts of the aforesaid Durbitzee Sing to an arbitrator, did find him, the said Durbitzee Sing, in debt to the company for a sum not considerable enough to justify the severe treatment of the said Durbitzee Sing; his wife and son complaining, at or about the same time, that the balances due to him from the aumils, or sub-collectors, had been received by the new administrator, and carried to his own credit, in prejudice and wrong to the said Durbitzee Sing; which representation, the only one that has been transmitted on the part of the said sufferers, has not been contradicted.

That it appears that the said Durbitzee Sing did afterwards go to Calcutta for the redress of his grievances; and that it does not appear that the same were redressed, or even his complaints heard, but he received two peremptory orders from the supreme council to leave the said city, and to return to Benares; that on his return to Benares, and being there met by Warren Hastings aforesaid, he, the said Warren Hastings, although he had reason to be well assured that the said Durbitzee Sing was in possession of small or no substance, did again cruelly and inhumanly, and without any legal authority, order the said Durbitzee Sing to be strictly imprisoned; and the said Durbitzee Sing, in consequence of the vexations, hardships, and oppressions aforesaid, died in a short time after insolvent; but whether in prison or not, does not appear.

PART V.

THIRD REVOLUTION IN BENARES.

THAT the said Warren Hastings, having, in the manner before recited, divested Durbege Sing of the administration of the province of Benares, did, of his own arbitrary will and pleasure, and against the remonstrances of the rajah and his mother, (in whose name and in whose right the said Durbege Sing, father of the one and husband of the other, had administered the affairs of the government,) appoint a person, called Jagher Deo Sheo, to administer the same.

That the new administrator, warned by the severe example made of his predecessor, is represented by the said Warren Hastings as having made it his "avowed principle (as it might be expected it should be) that the sum fixed for the revenue *must* be collected." And he did, upon the principle aforesaid, and by the means suggested by a principle of that sort, accordingly levy from the country, and did regularly discharge to the British resident at Benares, by monthly payments, the sums imposed by the said Warren Hastings, as it is asserted by the resident Fowke; but the said Warren Hastings did assert, that his annual collections did not amount to more than lacks 37,37,600, or thereabouts, which he says is much short of the revenues of the province, and is about twenty-four thousand pounds short of his agreement.

That it further appears, that notwithstanding the new administrator aforesaid was appointed two months, or thereabouts, after the beginning of the fuseli year, that is to say, about the middle of November, 1782, and the

former administrator had collected a certain portion of the revenues of that year, amounting to 17,000*l.* and upwards; yet he, the said new administrator, upon the unjust and destructive principle aforesaid, suggested by the cruel and violent proceedings of the said Warren Hastings towards his predecessor, did levy on the province, within the said year, the whole amount of the revenues to be collected, in addition to the sum collected by his predecessor aforesaid.

That, on account of a great drought which prevailed in the province aforesaid, a remission of certain duties in grain was proposed by the chief criminal judge at Benares; but the administrator aforesaid, being fearful that the revenue would fall short in his hands, did strenuously oppose himself to the necessary relief to the inhabitants of the said city.

That notwithstanding the cantonment of several bodies of the company's troops within the province, since the abolition of the native government, it became subject, in a particular manner, to the rajahs upon the borders; insomuch, that in one quarter, no fewer than thirty villages had been sacked and burned, and the inhabitants reduced to the most extreme distress.

That the resident, in his letter to the board at Calcutta, did represent that the collection of the revenue was become very difficult; and, besides the extreme drought, did assign for a cause of that difficulty, the following:

"That there is also one fund, which, in former years, was applied in this country to remedy temporary inconveniences in the revenue, and which in the present year does not exist. This was the private fortunes of merchants and shroffs (bankers) resident in Benares, from whom aumils (collectors) of credit could obtain temporary loans, to satisfy the immediate calls of the rajah. These sums, which used to circulate between the aumil and the merchant, have been turned into a different channel, by bills of exchange to defray the expenses of government both on the west coast of India, and also at Madras." To which representation it does not appear that any answer was given, or that any mode of redress was adopted in consequence thereof.

That the said Warren Hastings, having passed through the province of Benares (Gauzipore) in his progress towards Oude, did, in a letter dated from the city of Lucknow, the 2d of April, 1784, give to the council-board at Calcutta an account (highly dishonourable to the British government) of the effect of the arrangements made by himself in the years 1781 and 1782, in the words following: "Having contrived, by making forced stages, while the troops of my escort marched at the ordinary rate, to make a stay of five days at Benares, I was thereby furnished with the means of acquiring some knowledge of the state of the province, which I am anxious to communicate to you. Indeed the inquiry, which was in *a great degree obtruded upon me*, affected me with very mortifying reflections on my inability to apply it to any useful purpose. From the confines of Buxar to Benares, I was followed and *fatigued* by the clamours of the discontented inhabitants. It was what I expected in a degree, because it is rare that the exercise of authority should prove satisfactory to all, who are the objects of it. The distresses, which were produced by the long continued drought, unavoidably tended to heighten the general discontent; *yet I have reason to fear that the cause existed principally in a defective, if not a corrupt and oppressive administration.*" "Of a multitude of petitions, which were presented to me, and of which I took minutes, every one, that did not relate to a personal grievance, contained the representation of one and the same species of oppression, which is in its nature of an influence most fatal to the future cultivation. The practice, to which I allude, is this: it is affirmed that the aumils and renters exact, from the proprietors of the actual harvest, a large increase in kind on their stipulated rent; that is, from those, who hold their potta by the tenure of paying *one half* of the produce of their crops, either *the whole*, without subterfuge, or a *large* proportion of it by a *false measurement*, or other pretexts; and from those whose engagements are for a fixed rent *in money*, the half, or a greater proportion, is taken *in kind*. This is in effect a tax upon the industry of the inhabitants; since there is scarce a field of grain in the province, *I might say not one*, which has not been preserved by the incessant labour of the cultivator, by digging wells for their supply, or watering them from the wells of masonry, with which their country abounds, or from the neighbouring tanks, rivers, and nullahs. The people, who imposed on themselves this voluntary and extraordinary labour, and not unattended with expense, did it on the expectation of reaping the profits of it; and it is certain they would not have done it, if they had known that their rulers, *from whom they were entitled to an indemnification*, would take from them what they so hardly earned. If the same administration continues, and the country shall again labour

under want of rain, *every field will be abandoned, the revenue fail, and thousands perish through want of subsistence*; for who will labour for the *sole* benefit of others, and to make himself the subject of exaction? These practices are to be imputed to the naib himself, [the administrator forced by the said Warren Hastings on the present rajah of Benares.] The avowed principle on which he acts, and which he acknowledged to myself, is, that the *whole* sum fixed for the revenue of the province *must* be collected; and that, for this purpose, the deficiency arising in places where the crops have failed, or which have been left uncultivated, must be supplied from the resources of others, where the soil has been better suited to the season, or the industry of the cultivators hath been more successfully exerted: a principle which, however specious and plausible it may at first appear, *certainly tends to the most pernicious and destructive consequences*. If this declaration of the naib had been made only to myself, I might have doubted my construction of it; but it was repeated by him to Mr. Anderson, who understood it exactly in the same sense. In the management of the customs, the conduct of the naib, or of the officer under him, was forced also upon my attention. *The exorbitant rates, exacted by an arbitrary valuation of the goods*; the practice of exacting duties *twice* on the same goods, first from the seller, and afterwards from the buyer; and the vexations, disputes, and delays, drawn on the merchants by these oppressions, were loudly complained of; and some instances of this kind were said to exist at the very time I was at Benares. Under such circumstances, we are not to wonder if the merchants of foreign countries are discouraged from resorting to Benares, and if the commerce of that province should annually decay. *Other* evils, or imputed evils, have accidentally come to my knowledge, which I will not now particularize; as I hope that, with the assistance of the resident, they may be in *part* corrected. One evil I must mention, because it has been verified by my own observation, and is of that kind which reflects an unmerited reproach on our general and national character. When I was at Buxar, the resident, at my desire, enjoined the naib to appoint creditable people to every town, through which our route lay, to persuade and encourage the inhabitants to remain in their houses, promising to give them guards as I approached, and they required it for their protection; and that he might perceive how earnest I was for his observation of this precaution, I repeated it to him in person, and dismissed him, that he might precede me for that purpose. But, to my great disappointment, *I found every place, through which I passed, abandoned; nor had there been a man left in any of them for their protection*. I am sorry to add, *that from Buxar to the opposite boundary, I have seen nothing but traces of complete devastation in every village; whether caused by the followers of the troops, which have lately passed for their natural relief, and I know not whether my own may not have had their share*, or from the apprehensions of the inhabitants left to themselves, and of themselves deserting their houses. I wish to acquit my own countrymen of the blame of these unfavourable appearances, and in my own heart I do acquit them; for at one encampment a crowd of people came to me, complaining that *their new aumil*, (*collector*) *on the approach of any military detachment, himself first fled from the place; and the inhabitants, having no one to whom they could apply for redress, or for the representation of their grievances, and being thus remediless, fled also; so that their houses and effects became a prey to any person who chose to plunder them*. The general conclusion appeared to me an inevitable consequence from such a state of facts; and my own senses bore testimony to it in this specific instance; nor do I know how it is possible for any officer commanding a military party, how attentive soever he may be to the discipline and forbearance of his people, to prevent disorders *when there is neither opposition to hinder, nor evidence to detect them*. These, and many other irregularities, I impute *solely* to the naib, and recommend his instant removal.

"I cannot help remarking, that, except the city of Benares, *the province is in effect without a government. The administration of the province is misconducted, and the people oppressed, trade discouraged, and the revenue in danger of a rapid decline, from the violent appropriation of its means*."

That the said Warren Hastings did recommend to the council, for a remedy of the disorders and calamities, which had arisen from his own acts, dispositions, and appointments, that the administrator aforesaid should be instantly removed from his office; attributing the aforesaid "irregularities, *and many others, solely to him*;" although on his own representation it does appear that he was the sole cause of the irregularities therein described: neither does it appear that the administrator,

so by the said Hastings nominated and removed, was properly charged and called to answer for the said recited irregularities, or for the *many others* not recited, but *attributed solely* to him; nor has any plea or excuse from him been transmitted to the board, or to the court of directors; but he was, at the instance of the said Hastings, deprived of his said office contrary to the principles of natural justice, in a violent and arbitrary manner; which proceeding, combined with the example made of his predecessor, must necessarily leave to the person, who should succeed to the said office, no distinct principle upon which he might act with safety. But in comparing the consequences of the two delinquencies charged, the failure of the payment of the revenues (from whatever cause it may arise) is more likely to be avoided than any severe course towards the inhabitants; as the former fault was, besides the deprivation of office, attended with two imprisonments, with a menace of death, and an actual death, in disgrace, poverty, and insolvency; whereas the latter, namely, the oppression, and thereby the total ruin of the country, charged on the second administrator, was only followed by loss of office; although he, the said Warren Hastings, did further assert (but with what truth does not appear) that the collection of the last administrator had fallen much short of the revenue of the province.

That the said Warren Hastings himself was sensible that the frequent changes by him made would much disorder the management of the revenues, and seemed desirous of concealing his intentions concerning the last change until the time of its execution. Yet it appears by a letter from a British resident, dated the 23d of June, 1784, "that a very strong report prevailed at Benares of his (the said Hastings's) intentions of appointing a new naib for the approaching year; and that the effect is evident, which the prevalence of such an idea amongst the aumils would probably have on the cultivation at this particular time. The heavy mofussil kists (harvest instalments) have now been collected by the aumils; the season of tillage is arrived; the ryots (country farmers) must be indulged, and even assisted by advances; and the aumil must look for his returns in the abundance of the crop, the *consequence of this early attention to the cultivation*. The effect is evident, *which the report of a change in the first officer of the revenue must have on the minds of the aumils, by leaving them at an uncertainty of what they have in future to expect*; and, in proportion to the degree of this uncertainty, their efforts and expenses in promoting the cultivation will be languid and sparing.

"In compliance with the naib's request, I have written to all the aumils, encouraging and ordering them to attend to the cultivation of their respective districts. But I conceive I should be able to promote this very desirable intention much more effectually, if you will honour me with the communication of your intentions on this subject. At the same time I cannot help just remarking, that if a change is intended, the sooner it takes place, the more *the bad effects* I have described will be obviated."

That the council, having received the proposition for the removal of the administrator aforesaid, did also in a letter to him (the said Hastings) condemn the frequent changes by him made in the administration of the collection of Benares; but did consent to such alterations as might be made without encroaching on the rights established by his (the said Hastings's) agreement in the year 1781, and did desire him to transmit to them his plan for a new administration.

That the said Hastings did transmit a plan, which, notwithstanding the evils which had happened from the former frequent changes, he did propose, *as a temporary expedient* for the administration of the revenues of the said province; in which no provision was made for the reduction or remission of revenue, as exigencies might require; or for the extraction of the circulating species from the said province; or for the supply of the necessary advances for cultivation; nor for the removal or prevention of any of the grievances by him before complained of, other than an inspection by the resident and the chief criminal magistrate of Benares, and other regulations equally void of effect and authority; and which plan Mr. Stables, one of the supreme council, did altogether reject; but the same was approved of, *as a temporary expedient*, with some exceptions, by two other members of the board, Mr. Wheler and Mr. Macpherson, declaring the *said Warren Hastings responsible for the temporary expediency of the same.*

That the said Warren Hastings, in the plan aforesaid, having strongly objected to the appointment of any European collectors, that is to say, of any European servants of the company being concerned in the same, declared that there had been sufficient experi-

ence of the ill effects of their being so employed in the province of Bengal; by which the said Hastings did either, in loose and general terms, convey a false imputation upon the conduct of the company's servants employed in the collection of the revenues of Bengal, or he was guilty of a criminal neglect of duty, in not bringing to punishment the particular persons, whose evil practices had given rise to such a general imputation on British subjects and servants of the company, as to render them unfit for service in other places.

That the said Warren Hastings having, in the course of three years, made three complete revolutions in the state of Benares, by expelling, in the first instance, the lawful and rightful governour of the same, under whose care and superintendence a large and certain revenue, suitable to the abilities of the country, and consistent with its prosperity, was paid with the greatest punctuality; and by afterwards displacing two effective governours, or administrators of the province, appointed in succession by himself; and in consequence of the said appointments, and violent and arbitrary removals, the said province "being left in effect without a government," except in one city only; and having, after all, settled no more than a temporary arrangement; is guilty of an high crime and misdemeanour in the destruction of the country aforesaid.

IV. PRINCESSES OF OUDE.

I.—That the reigning nabob of Oude, commonly called Asoph ul Dowla, (son and successour to Shuja ul Dowla,) by taking into, or continuing in his pay, certain bodies of regular British troops, and by having afterwards admitted the British resident at his court into the management of all his affairs, foreign and domestic, and particularly into the administration of his finances, did gradually become, in substance and effect, as well as in general repute and estimation, a dependant on, or vassal of, the East-India company; and was, and is, so much under the controul of the governour-general and council of Bengal, that, in the opinion of all the native powers, the English name and character is concerned in every act of his government.

II.—That Warren Hastings, Esquire, contrary to law, and to his duty, and in disobedience to the orders of the East-India company, arrogating to himself the nomination of the resident at the court of Oude, as his particular agent and representative, and rejecting the resident appointed by the company, and obtruding upon them a person of his own choice, did, from that time, render himself in a particular manner responsible for the good government of the provinces composing the dominions of the nabob of Oude.

III.—That the provinces aforesaid having been, at the time of their first connexion with the company, in an improved and flourishing condition, and yielding a revenue of more than three millions of pounds sterling, or thereabouts, did, soon after that period, begin sensibly to decline; and the subsidy of the British troops stationed in that province, as well as other sums of money due to the company by treaty, ran considerably in arrear; although the prince of the country, during the time these arrears accrued, was otherwise in distress, and had been obliged to reduce all his establishments.

IV. That the prince aforesaid, or nabob of Oude, did, in humble and submissive terms, supplicate the said Warren Hastings to be relieved from a body of troops, whose licentious behaviour he complained of, and who were stationed in his country without any obligation, by treaty, to maintain them; pleading the failure of harvest, and the prevalence of famine in his country;—a compliance with which request, by the said Warren Hastings, was refused in unbecoming, offensive, and insulting language.

V.—That the said nabob, labouring under the aforesaid and other burthens, and being continually urged for payment, was advised to extort, and did extort, from his mother and grandmother, under the pretext of loans (and sometimes without that appearance,) various great sums of money, amounting in the whole to 630,000*l.* sterling, or thereabouts; alleging in excuse, the rigorous demands of the East-India company, for whose use the said extorted money had been demanded, and to which a considerable part of it had been applied.

VI.—That the two female parents of the nabob aforesaid were among the women of the greatest rank, family, and distinction, in Asia; and were left by the deceased nabob, the son of the one, and the husband of the other, in charge of certain considerable part of his trea-

sures, in money, and other valuable moveables, as well as certain landed estates, called jaghires, in order to the support of their own dignity, and the honourable maintenance of his women, and a numerous offspring and their dependents; the said family amounting, in the whole, to two thousand persons, who were, by the said nabob, at his death, recommended in a particular manner to the care and protection of the said Warren Hastings.

VII.—That on the demand of the nabob of Oude on his parents for the last of the sums, which completed the six hundred and thirty thousand pounds aforesaid, they, the said parents, did positively refuse to pay any part of the same to their son for the use of the company, until he should agree to certain terms to be stipulated in a regular treaty; and, among other particulars, to secure them in the remainder of their possessions, and also on no account or pretence to make any further demands or claims on them; and, well knowing from whence all his claims and exactions had arisen, they demanded that the said treaty, or family compact, should be guarantied by the governour-general and council of Bengal; and a treaty was accordingly agreed to, executed by the nabob, and guarantied by John Bristow, Esquire, the resident at Oude, under the authority, and with the express consent of the said Warren Hastings and the council-general, and, in consequence thereof, the sum last required was paid, and discharges given to the nabob for all the money which he had borrowed from his own mother, and the mother of his father.

That the distresses and disorders in the nabob's government, and his debt to the company, continuing to increase, notwithstanding the violent methods before mentioned, taken to augment his resources, the said Warren Hastings, on the 21st May, and on the 31st July, 1781, (he and Mr. Wheler being the only remaining members of the council-general, and he having the conclusive and casting voice, and thereby being in effect the whole council,) did, in the name and under the authority of the board, resolve on a journey to the upper provinces, in order to a personal interview with the nabob of Oude, toward the settlement of his distressed affairs; and did give to himself a delegation of the powers of the said council, in direct violation of the company's orders, forbidding such delegation.

VIII.—That the said Warren Hastings, having by his appointment met the nabob of Oude near a place called Chunar, and possessing an entire and absolute command over the said prince, did, contrary to justice and equity, and the security of property, as well as to public faith, and the sanction of the company's guarantee, under the colour of a treaty, which treaty was conducted secretly, without a written document of any part of the proceeding, (except the pretended treaty itself,) authorize the said nabob to seize upon, and confiscate to his own profit, the landed estates, called jaghires, of his parents, kindred, and principal nobility; only stipulating a pension to the nett amount of the rent of the said lands as an equivalent, and that equivalent to such only, whose lands had been guarantied to them by the company: but provided neither in the said pretended treaty, nor in any subsequent act, the least security for the payment of the said pension to those for whom such pension was ostensibly reserved; and, for the others, not so much as a show of indemnity;—to the extreme scandal of the British government, which, valuing itself upon a strict regard to property, did expressly authorize, if it did not command, an attack upon that right, unprecedented in the despotic governments of India.

IX.—That the said Warren Hastings, in order to cover the violent and unjust proceedings aforesaid, did assert a claim of right in the same nabob to all the possessions of his said mother and grandmother, as belonging to him by the Mahomedan law; and this pretended claim was set up by the said Warren Hastings, after the nabob had, by a regular treaty, ratified and guarantied by the said Hastings as governour-general, renounced and released all demands on them. And this false pretence of a legal demand was taken up and acted upon by the said Warren Hastings, without laying the said question on record before the council-general, or giving notice to the persons to be affected thereby, to support their rights before any of the principal magistrates and expounders of the Mahomedan law, or taking publicly the opinions of any person conversant therein.

X.—That, in order to give further colour to the acts of ill faith and violence aforesaid, the said Warren Hastings did cause to be taken at Lucknow, and other places, before divers persons, and particularly before Sir Elijah Impey, knight, his majesty's chief justice, acting extra-judicially, and not within the limits of his jurisdiction, several passion-

ate, careless, irrelevant, and irregular affidavits, consisting of matter not fit to be deposed on oath; of reports, conjectures, and hearsays; some of the persons swearing to the said hearsays, having declined to declare from whom they heard the accounts at second-hand sworn to: the said affidavits in general tending to support the calumnious charge of the said Warren Hastings, namely: that the aged women before mentioned had formed, or engaged in, a plan for the deposition of their son and sovereign, and the *utter extirpation* of the English nation: and neither the said charge against persons whose dependence was principally, if not wholly, on the good faith of this nation, and highly affecting the honour, property, and even lives, of women of the highest condition: nor the affidavits intended to support the same, extra-judicially taken *ex-parte*, and without notice, by the said Sir Elijah Impey, and others, were at any time communicated to the parties charged, or to any agent for them; nor were they called upon to answer, nor any explanation demanded of them.

XI.—That the article affecting private property secured by public acts, in the said pretended treaty, contains nothing more than a general permission, given by the said Warren Hastings, for confiscating such jaghires, or landed estates, with the modifications therein contained, "as *he* [the nabob] may find necessary;" but does not directly point at, or express by name, any of the landed possessions of the nabob's mother. But soon after the signing of the said pretended treaty (that is, on the 29th November, 1781,) it did appear that a principal object thereof was to enable the nabob to seize upon the estates of his female parents aforesaid, which had been guarantied to them by the East India company. And although in the treaty, or pretended treaty, aforesaid, nothing more is purported than to give a simple permission to the nabob to seize upon and confiscate the estates, leaving the execution or non-execution of the same wholly to his discretion, yet it appears, by several letters from Nathaniel Middleton, Esquire, the resident at the court of Oude, of the 6th, 7th, and 9th of December, 1781, that no such discretion, as expressed in the treaty, was left, or intended to be left with him the said nabob; but that the said article ought practically to have a construction of a directly contrary tendency; that, instead of considering the article as originating from the nabob, and containing a power provided in his favour, which he did not possess before, the confiscation of the jaghires aforesaid was to be considered as a measure from the English, and to be intended for their benefit; and as such, that the execution was to be forced upon him; and the execution thereof was accordingly forced upon him. And the resident, Middleton, on the nabob's refusal to act in contradiction to to his sworn engagement, guarantied by the East India company, and in the undutiful and unnatural manner required, did totally supersede his authority in his own dominions, considering himself as empowered so to act by the instructions of the said Hastings, although he had reason to apprehend a general insurrection in consequence thereof, and that he found it necessary to remove his family, "which he did not wish to retain there in case of a rupture with the nabob, or the necessity of employing the British forces in the reduction of *his* aumils and troops;" and he did accordingly, as sovereign, issue his own edicts and warrants, in defiance of the resistance of the nabob, in the manner described in the letters aforesaid, in a letter of 6th December, 1781, that is to say, "*Finding the nabob wavering in his determination about the resumption of the jaghires*, I this day, in presence of, and with the minister's concurrence, ordered the necessary perwannahs to be written to the several aumils for that purpose; and it was my firm resolution to have despatched them this evening, with proper people to see them punctually and implicitly carried into execution; but before they were all transcribed, I received a message from the nabob, who had been informed by the minister of the resolution I had taken, entreating that I would withhold the perwannahs until to-morrow morning, when he would attend me, and afford me satisfaction on this point. As the loss of a few hours in the despatch of the perwannahs appeared of little moment, and as it is possible the nabob, *seeing that the business will at all events be done, may make it an act of his own, I have consented to indulge him in his request; but be the result of our interview whatever it may, nothing shall prevent the orders being issued to-morrow, either by him or myself, with the concurrence of the ministers.* Your pleasure respecting the begums I have learnt from Sir Elijah; and the measure heretofore proposed will soon follow the resumption of the jaghires. From both, or indeed from the former alone, I have no doubt of the complete liquidation of the company's balance."—And also in another letter of the 7th December, 1781,—"I had the honour to address you yesterday, informing you of the steps I had taken

in regard to the resumption of *the jaghires. This morning the vizier came to me according to his agreement, but seemingly without any intention or desire to yield me satisfaction on the subject under discussion; for, after a great deal of conversation, consisting, on his part, of trifling evasion and puerile excuses for withholding his assent to the measure, though at the same time professing the most implicit submission to your wishes, I found myself without any other resource than the one of employing that exclusive authority with which I consider your instructions to vest me: I therefore declared to the nabob, in presence of the minister and Mr. Johnson, who I desired might bear witness of the conversation, that I construed his rejection of the measure proposed, as a breach of his solemn promise to you, and an unwillingness to yield that assistance which was evidently in his power, towards liquidating his heavy accumulating debt to the company;* and that I must in consequence determine, in my own justification, *to issue immediately the perwannahs*, which had only been withheld in the sanguine hope, that he would be prevailed upon to *make that his own act*, which nothing but the most urgent necessity could force *me to make mine.*—He left me without any reply, but afterwards sent for his minister, and authorized him to give me hopes, that my requisition would be complied with; on which I expressed my satisfaction, but declared, that I could admit of no further delays; and unless I received his excellency's formal acquiescence before the evening, I should then most assuredly issue *my* perwannahs; which *I have accordingly done*, not having had any assurances from his excellency, that could justify a further suspension. I shall, as soon as possible, inform you of the effects of the perwannahs, which, in many parts, I am apprehensive it will be found necessary *to enforce with military aid.* I am not, however, entirely without hopes that the nabob, when *he sees the inefficacy of further opposition*, may alter his conduct, and prevent *the confusion and disagreeable consequences, which would be too likely to result from the prosecution of a measure of such importance without his concurrence.*

His excellency talks of going to Fyzabad, for the purpose heretofore mentioned, in three or four days: *I wish he may be serious in his intention*, and you may rest assured, *I shall spare no pains to keep him to it.*"——And further, in a letter of the 9th December, 1781—"I had the honour to address you on the 7th instant, informing you of the conversation which had passed between the nabob and me, on the subject of resuming the jaghires, and the step I had taken in consequence. *His excellency appeared to be very much hurt and incensed at the measure; and loudly complains of the treachery of his ministers; first, in giving you any hopes that such a measure would be adopted; and secondly, in their promising me their whole support in carrying it through: but, as I apprehend, rather than suffer it to appear that the point had been carried in opposition to his will, he at* length yielded to a *nominal* acquiescence, and has this day issued his own perwannahs to that effect; *declaring, however, at the same time, both to me and his ministers, that it is an act of compulsion.* I hope to be able in a few days, in consequence of this measure, to transmit you an account of the actual value and produce of the jaghires, opposed to the nominal amount at which they stand rated on the books of the sircar."

XII.—That the said Warren Hastings, instead of expressing any disapprobation of the proceedings aforesaid, in violation of the rights secured by treaty with the mother and grandmother of the reigning prince of Oude, and not less in violation of the sovereign rights of the nabob himself, did, by frequent messages, stimulate the said Middleton to a perseverance in, and to a rigorous execution of the same; and, in his letter from Benares of the 25th December, 1781, did "express doubts of his firmness and activity, and, above all, of his recollection of his instructions, and their importance; and that, if he could not rely on his own [power] and the means he possessed for performing those services, he *would free him* [the said Middleton] *from the charges*, and would proceed *himself* to Lucknow, and would, *himself*, undertake them."

XIII.—That very doubtful credit is to be given to any letters written by the said Middleton to the said Warren Hastings, when they answer the purposes which the said Warren Hastings had evidently in view, the said Middleton having written to him in the following manner, from Lucknow, 30th December, 1781:

XIV.—"My dear sir,—I have this day answered your *public* letter in the form *you seem to expect.* I hope there is nothing in it that may appear to you too pointed. *If you wish the matter to be otherwise understood than I have taken up and stated it, I need not say I shall be ready to conform to whatever you may prescribe, and to take upon myself any share*

of the blame of the (hitherto) non-performance of the stipulations made on behalf of the nabob. Though I do assure you, I myself represented to his excellency and the ministers, conceiving it to be your desire, that *the apparent assumption of the reins of his government* (for in that light he undoubtedly considered it at the first view) as specified in the agreement executed by him, was not meant to be *fully and literally* enforced, but that it was necessary *you should have something to show on your side, as the company were deprived of a benefit without a requital; and upon the faith of this assurance alone*, I believe I may safely affirm his excellency's objections to signing the treaty were given up. If I have understood the matter wrong, or misconceived your design, I am truly sorry for it; *however, it is not too late to correct the errour; and I am ready to undertake, and, God willing, to carry through, whatever you may, on the receipt of my public letter, tell me is your final resolve.*"

XV.—That it appears, but on his, the said Middleton's sole authority, in a letter from the said Middleton, dated Lucknow, 2d December, 1781, that the nabob of Oude, wishing to evade the measure of resuming the jaghires aforesaid, did send a message to him, purporting, "that if the measure proposed was intended to procure the payment of the balance due to the company, he could better and more expeditiously effect that object, by taking from his mother the treasures of his father, which he did assert to be in her hands, and to which he did claim a right: and that it would be sufficient that he, the said Hastings, *would hint his opinion upon it, without giving a formal sanction to the measure proposed;* and that whatever his resolution upon the subject should be, it would be expedient to keep it secret;" adding, "*the resumption of the jaghires it is necessary to suspend till I have your answer to this letter.*"

XVI.—That it does not appear that the said Hastings did write any letter in answer to the proposal of the said Middleton, but he, the said Hastings did communicate his pleasure thereon to Sir Elijah Impey, being then at Lucknow, for his, the said Middleton's information; and it does appear, that the seizing of the treasures of the mother of the nabob, said to have been proposed as an *alternative* by the said nabob, to prevent the resumption of the jaghires, was determined upon and ordered by the said Hastings; and the resumption of the said jaghires, for the ransom of which the seizing of the treasures was proposed, was also directed; not one only, but both sides of the alternative being enforced upon the female parents of the nabob aforesaid, although both the one and the other had been secured to them by a treaty with the East India company.

* XVIII.—That Sir Elijah Impey, knight, his majesty's chief justice at Fort William, did undertake a journey of nine hundred miles, from Calcutta to Lucknow, on pretence of health and pleasure; but was in reality in the secret of these and other irregular transactions, and employed as a channel of confidential communication therein. And the said Warren Hastings, by presuming to employ the said chief justice, a person particularly unfit for an agent, in the transaction of affairs, *primâ facie* at least unjust, violent, and oppressive, contrary to public faith, and to the sentiments and law of nature, and which he the said Hastings was sensible "could not fail to draw obloquy on himself by his participation," did disgrace the king's commission, and render odious to the natives of Hindoston the justice of the crown of Great Britain.

XIX.—That although the said Warren Hastings was, from the beginning, duly informed of the violence offered to the personal inclinations of the nabob, and the "apparent assumption of the reins of his government," for the purposes aforesaid, yet, more than two years after, he did write to his private agent, Major Palmer, that is to say, in his letter of the 6th of May, 1783, "that it has been a matter of *equal surprize and concern* to him, to learn from the letters of the resident, that the nabob vizier was with difficulty, and almost unconquerable reluctance, induced to give his consent to the attachment of the treasure deposited by his father, under the charge of the begum his mother, and to the resumption of her jaghire, and the other jaghires of the individuals of his family;" which pretence of ignorance of the nabob's inclinations is fictitious and groundless. But whatever deception he might pretend to be in concerning the original intention of the nabob, he was not, nor did he pretend to be, ignorant of his, the nabob's reluctance to *proceed* in the said measures; but did admit his knowledge of the nabob's reluctance to their full execution, and yet did justify the same as follows:

XX.—"I desire that you will inform him

* See Orig.

(the nabob) that in these and the other measures, which were either proposed by him, or received his concurrence in the agreement passed between us at Chunar, I neither had, nor could have any object *but his relief and the strengthening of his connection with the company*; and that I should not, on any other ground, have exposed myself to *the personal obloquy, which they could not fail to draw upon me by my participation in them*, but left him to regulate, by his own discretion, and by his own means, the economy of his own finances, and, with much more cause, *the assertion of his domestic right. In these, he had no regular claim to my interference*; nor had I, in my public character, any claim upon him, but for the payment of the debt then due from him to the company, although I was under the strongest obligations to require it for the relief of the pressing exigencies of their affairs.—He will well remember the manner in which, at a visit to him, in his own tent, I declared my acquiescence freely and without hesitation to each proposition, which afterwards form the substance of a written agreement, as he severally made them; and he can want no other evidence of my motives for *so cheerful a consent*, nor for the requests which I added as the means of fulfilling his purposes in them. Had he not made these measures his own option, I should not have proposed them; *but having once adopted them, and made them the conditions of a formal and sacred agreement, I had no longer an option to dispense with them, but was bound to the complete performance and execution of them, as points of public duty and of national faith, for which I was responsible to my king and the company, my immediate superiours; and this was the reason for my insisting on their performance and execution, when I was told that the nabob himself had relaxed from his original purpose and expressed a reluctance to proceed in it.*"

XXI.—That the said Warren Hastings does admit, that the nabob had, originally, no regular claim upon him for his interference, or he any claim on the nabob, which might entitle him to interfere in the nabob's domestic concerns; yet, in order to justify his so invidious an interference, he did, in the letter aforesaid, give a false account of the said treaty, which (as before mentioned) did nothing more than give a permission to the nabob to resume the jaghires, *if HE should judge the same to be necessary*; and did therefore leave the right of dispensing with the whole, or any part thereof, as much in his option after the treaty, as it was before; the declared intent of the article being only to remove the restraint of the company's guarantee forbidding such resumption, but furnishing nothing which could authorize putting that resumption into the hands and power of the company, to be enforced at their discretion. And with regard to the other part of the spoil made by order of the said Hastings, and by him, in the letter aforesaid, stated to be made equally against the will of the nabob, namely, that which was committed on the personal and moveable property of the female parents of the nabob, nothing whatsoever in relation to the same is stipulated in the said pretended treaty.

XXII.—That the said Hastings, in asserting that he was bound to the acts aforesaid by public duty, and even by national faith, in the very instance in which that national faith was by him grossly violated; and in justifying himself, by alleging that he was bound to the *complete* execution by a responsibility to the company, which he immediately served; and by asserting, that these violent and rapacious proceedings, subjecting all persons concerned in them to obloquy, would be the means of strengthening the connection of the nabob with the British united company of merchants trading to the East Indies, did disgrace the authority under which he immediately acted. And that the said Hastings, in justifying his obligations to the said acts by a responsibility to the *king*, namely, to the king of Great Britain, did endeavour to throw upon his majesty, his lawful sovereign (whose name and character he was bound to respect, and to preserve in estimation with all persons, and particularly with the sovereign princes, the allies of his government) the disgrace and odium of the aforesaid acts, in which a sovereign prince was by him, the said Hastings, made an instrument of perfidy, wrong, and outrage to two mothers and wives of sovereign princes; and in which he did exhibit to all Asia (a country remarkable for the utmost devotion to parental authority) the spectacle of a christian governor, representing a christian sovereign, compelling a son to become the instrument of such violence and extortion against his own mother.

That the said Warren Hastings, by repeated messages and injunctions, and under menaces of "a dreadful responsibility," did urge the resident to a completion of this barbarous act; and well knowing that such an act would probably be resisted, did order him, the said

resident, to use the British troops under his direction for that purpose; and did offer the assistance of further forces, urging the execution in the following peremptory terms: "You *yourself* must be *personally present;* you must not allow *any* negotiation or forbearance, but must prosecute both services, until the begums (princesses) are at the entire mercy of the nabob."

XXIII.—That in conformity to the said peremptory orders, a party of British and other troops, with the nabob in the ostensible, and the British resident in the real command, were drawn towards the city of Fyzabad, in the castle of which the mother and grandmother of the nabob had their residence; and after expending two days in negotiation (the particulars of which do not appear) the resident not receiving the satisfaction he looked for, the town was first stormed, and afterwards the castle; and little or no resistance being made, and no blood being shed on either side, the British troops occupied all the outer inclosure of the palace of one of the princesses, and blocked up the other.

XXIV.—That this violent assault and forcible occupation of their houses, and the further extremities they had to apprehend, did not prevail on the female parents of the nabob to consent to any submission, until the resident sent in unto them a letter from the said Warren Hastings (no copy of which appears) declaring himself no longer bound by the guarantee, and containing such other matter as tended to remove all their hopes, which seemed to be centered in British faith.

XXV.—That the chief officers of their household, who were their treasurers and confidential agents, the eunuchs Jewar Ali Khân and Behar Ali Kâhn, persons of great eminence, rank, and distinction, who had been in high trust and favour with the late nabob, were ignominiously put into confinement under an inferiour officer, in order to extort the discovery of the treasures and effects committed to their care and fidelity. And the said Middleton did soon after, that is to say, on the 12th of January, 1782, deliver them over for the same purpose into the custody of Captain Neal Stuart, commanding the 8th regiment, by his order given in the following words: "to be kept in close and secure confinement, admitting of no intercourse with them, excepting by their four menial servants, who are authorized to attend them until further orders. You will allow them to have any necessary and convenience, which may be consistent with a strict guard over them."

XXVI.—That in consequence of these severities upon herself, and on those whom she most regarded and trusted, the mother of the said nabob did at length consent to the delivering up of her treasures, and the same were paid to the resident, to the amount of the bond given by the nabob to the company for his balance of the year 1779-80, and the said treasure "was taken from the most secret recesses in the houses of the two eunuchs."

XXVII.—That the nabob continuing still under the pressure of a further pretended debt to the company, for his balance of the year 1780–81, the resident, not satisfied with the seizure of the estates and treasures of his parents aforesaid, although he, the said resident did confess that the princess mother "had declared, *with apparent truth*, that she had delivered up *the whole of the property in her hands*, excepting goods, which, from the experience which he, the resident, had of the *small produce* of the sales of a former payment made by her in that mode, he did refuse, and that, in his opinion, it certainly would have amounted to little or nothing;" did proceed to extort another great sum of money, that is to say, the sum of 120,000*l.* sterling, on account of the last pretended balance aforesaid. In order, therefore, to compel the said ministers and treasurers either to distress their principals by extorting whatever valuable substance might, by any posibility, remain concealed, or to furnish the said sum from their own estates, or from their credit with their friends, he, the resident, did order their imprisonment to be aggravated with circumstances of great cruelty, giving an order to Lieutenant Francis Rutledge, dated 20th January, 1782, in the following words:

XXVIII.—"Sir,—When this note is delivered to you by Hoolas Roy, I have to desire that you order the two prisoners to be put *in irons, keeping them from all food, &c. agreeable to my instructions of yesterday.*

(Signed) "NATHL. MIDDLETON."

XXIX.—That by the said unjust and rigorous proceeding, the said eunuchs were compelled to give their engagement for the payment of 120,000*l.* sterling aforesaid, to be completed within the period of one month; but after they had entered into the said com-

pulsory engagement, they were still kept in close imprisonment, and the mother and grandmother of the nabob were themselves held under a strict guard; although, at the same time, the confiscated estates were actually in the company's possession, and found to exceed the amount of what they were rated at in the general list of confiscated estates; and although the assistant resident, Johnson, did confess "that the object of distressing the bhow begum was merely to obtain a *ready money* instead of a *dilatory payment*, and that this ready money payment, if not paid, was recoverable in the course of a few months upon the jaghires in his possession; and that therefore it was not worth proceeding to any extremities beyond the one described, (namely, the confinement of the princesses, and the imprisonment and fettering of their ministers) upon so respectable a family."

XXX.—That after the surrender of the treasure, and the passing the bonds and obligations given as aforesaid, the resident having been strictly ordered by the said Warren Hastings not to make any settlement whatsoever with the said women of high rank, the nabob was induced to leave the city of Fyzabad without taking leave of his mother, or showing her any mark of duty or civility. And on the same day the resident left the city aforesaid; and after his return to Lucknow, in order to pacify the said Hastings, who appeared to resent that the nabob was not urged to greater degrees of rigour than those hitherto used towards his mother, he the said resident did, in his letter of the 6th February, give him an assurance in the following words:—"I shall, as you direct, use my influence to dissuade his excellency from concluding *any settlement* until I have your further commands."

XXXI.—That the payment of the bond last extorted from the eunuchs was soon after commenced, and the grandmother, as well as the mother, were now compelled to deliver what they declared was *the extent of the whole* of both their possessions, including down to their *table utensils*; which, as the resident admitted, "they had been, and were still delivering, and that no proof had yet been obtained of their having more."

XXXII.—That bullion, jewels, and goods, to the amount of five hundred thousand pounds and upwards, were actually received by the resident for the use of the company, before the 23d of February, 1782; and there remained, on the said extorted bond, no more than about 25,000*l.* according to the statement of the eunuchs, and not above fifty thousand according to that made by the resident.

XXXIII.—That in this advanced state of the delivery of the extorted treasure, the ministers of the women aforesaid of the reigning family did apply to Captain Leonard Jaques, under whose custody they were confined, to be informed of the deficiency with which they stood charged, that they might endeavour, with the assistance of their friends, to provide for the same, and praying that they might, through his mediation, be freed from the hardships they suffered under their confinement; to which application they received an insolent answer from the said Richard Johnson, dated February 27th, 1782, declaring, that part of what he had received in payment was in jewels and bullion; and that more than a month, the time fixed for the final payment, would elapse before he could dispose of the same; insisting upon a ready money payment, and assuring them, "that the day on which their agreement expired, he should be indispensably obliged to recommence severities upon them, until the last farthing was fully paid." And in order to add to their terrours and hardships, as well as to find some pretext for the further cruel and inhuman acts intended, an apparently groundless and injurious charge was suggested to the imprisoned ministers aforesaid, in the following words:—"You may also mention to them, that I have reason to *suspect* that the commotions raised by Bulbudder have not been without their *suggestions and abetment*, which, if proved upon them, in addition to the *probable* breach of their agreement, will make their situation *very desperate*."

XXXIV.—That on the receipt of the said letter, that is, on the 2d March, the ministers aforesaid did aver, that they were not able to obtain cash in lieu of the jewels and other effects; but that if the goods were sold, and they released from their confinement, and permitted (as they have before requested) to go abroad among their friends, they could soon make good the deficiency; and they did absolutely deny "that they had any hand in the commotions raised by Bulbudder, or any kind of correspondence with him or his adherents."

XXXV.—That the prisoners aforesaid did shortly after, that is to say, on the 13th March, a third time renew their application to

Nathaniel Middleton, Esquire, the resident, and did request that the jewels remaining in his the said resident's hands, towards the payment of the balance remaining, "might be valued by four or five eminent merchants, Mussulmen and Hindûs, upon oath," and that if any balance should afterwards appear, they would upon their release get their friends to advance the same: and they did again represent the hardship of their imprisonment, and pray for relief; and did again assert that the imputations thrown upon them by the said Richard Johnson were false and groundless; "that they had no kind of intercourse, either directly or indirectly, with the authors of the commotions alluded to, and that they did stake their lives upon the smallest proof thereof being brought."

XXXVI.—That, instead of their receiving any answer to any of the aforesaid reasonable propositions, concerning either the account stated, or the crimes imputed to them, or any relief from the hardships they suffered, he, the resident Middleton, did, on the 18th of the said month, give to the officer, who had supplicated in favour of the said prisoners, an order, in which he declared himself "under the disagreeable necessity of recurring to severities, to enforce the said payment; and that this is therefore to desire that you immediately cause them *to be put in irons*, and keep them so until I shall arrive at Fyzabad to take further measures as may be necessary." Which order being received at Fyzabad the day after it was given, the said eunuchs were a second time thrown into irons. And it appears that (probably in resentment for the humane representations of the said Captain Jaques) the resident did refuse to pay for the fetters, and other contingent charges of the imprisonment of the said ministers of the nabob's mother, when at the same time very liberal contingent allowances were made to other officers; and the said Jaques did strongly remonstrate against the same as follows:—"you have also ordered me to put the prisoners in irons—this I have done, yet as I have no business to purchase fetters, or supply them any other way, it is but reasonable that you should order me to be reimbursed. And why should I add any thing more? A late commander at this place, I am told, draws near as many thousands monthly contingencies, as my trifling letter for hundreds. However, if you cannot get my bill paid, be so obliging as to return it, and give me an opportunity of declaring to the world, that, I believe I am the first officer in the company's service, who has suffered in his property by an independent command."

XXXVII.—That, in about two months after the said prisoners had continued in irons in the manner aforesaid, the officer on guard, in a letter of the 18th May, did represent to the resident as follows:—"The prisoners, Baher and Jewar Ally Khân, who seem to be very sickly, have requested their irons might be taken off for a few days, that they might take medicine, and walk about the garden of the place where they are confined. Now, as I am sure *they will be equally as secure without their irons as with them*, I think it my duty to inform you of this request: I desire to know your pleasure concerning it." To which letter the said officer did receive a direct refusal, dated 22d May, 1782, in the following words:—I am sorry it is not in my power to comply with your proposal of easing the prisoners for a few days of their fetters. Much as my humanity may be touched by their sufferings, I should think it inexpedient to afford them any alleviation, while they persist in a breach of their contract with me; and indeed no indulgence can be shown them without the authority of the nabob, who, instead of consenting to moderate the rigours of their situation, would be most willing to multiply them." Endeavouring to join the nabob, whom he well knew to be reluctant in the whole proceeding, as a party in the cruelties, by which, through the medium of her servants, it was intended to coerce his mother.

XXXVIII.—That the said resident, in a few days after, that is to say, on the 1st June, 1782, in a letter to Major Gilpin, in command at Fyzabad, did order the account, as by himself stated, to be read to the prisoners; and, without taking any notice of their proposal concerning the valuation of the effects, or their denial of the offences imputed to them, to demand a positive answer relative to the payment; and, "upon receiving from them a negative or unsatisfactory reply, to inform them that, all further negotiation being at an end, they must prepare for their removal to Lucknow, where they would be called upon to answer not only their recent breach of faith and solemn engagement, but also to atone for other heavy offences; the punishment of which, as had frequently been signified to them, it was in their power to have mitigated by a proper acquittal of themselves in this transaction." By which insinuations concerning the pretend-

ed offences of the said unhappy persons, and the manner by which they were to atone for the same, and by their never having been specifically and directly made, it doth appear, that the said crimes and offences were charged for the purpose of extorting money, and not upon principles, or for the ends of justice.

XXXIX.—That after some ineffectual negotiations to make the prisoners pay the money which it does not appear to have been in their power to pay, they were again threatened by the resident, in a letter to Major Gilpin, dated 9th June, 1782, in the following terms:—"I wish you to explain once more to the prisoners the imprudence and folly of their conduct in forcing me to a measure, which must be attended with consequences so very serious to them; and that, when once they are removed to Lucknow, it will not be in my power to show them mercy, or to stand between them and the vengeance of the nabob. Advise them to reflect seriously upon the unhappy situation in which they will be involved in one case, and the relief it will be in my power to procure them in the other; and let them make their option."

XL.—That he, the said resident, did also, at the same time, receive a letter from the princess mother, which letter does not appear, but to which only the following insolent return was made; that is to say, "the letter from the bhow begum is no ways satisfactory, and I cannot think of returning an answer to it. Indeed all correspondence between the begum and me has long been stopped; and I request you will be pleased to inform her, that I by no means wish to resume it, or to maintain any friendly intercourse with her, until she has made good my claim upon her for the balance due."

XLI.—That in consequence of these threats, and to prevent a separation of the ministers from their mistresses, several plans for the payment of the balance were offered, both by the mother of the nabob, and the prisoners, to which no other objection appears to have been made, than the length of time required by the parties to discharge the comparatively small remainder of the extorted bond; the officer on command declaring that, conformable to his instructions, he could not receive the same.

XLII.—That the prisoners were actually removed from the city of their residence to the city of Lucknow, where they arrived on the 24th of June, 1782, and were, on the next day, threatened with severities, "to make them discover where the balance might be procurable." And on the 28th, it should seem, that the severities for the purpose aforesaid were inflicted, at least upon one or them; for the assistant resident, Johnson, did, on that day, write to Captain Waugh, the officer commanding the guard, the letter following, full of disgrace to the honour, justice, and humanity of the British nation.

XLIII.—"Sir,—The nabob having determined to *inflict corporal punishment upon the prisoners* under your guard, this is to desire, that his officers, when they shall come, may have free access to the prisoners, and *be permitted to do with them as they shall see proper*, only taking care, that they leave them always under your charge."

XLIV.—That the said Richard Johnson did, further to terrify the prisoners, and to extort by all ways the remainder of the said unjust, oppressive, and rapacious demand, threaten to remove them out of the nabob's dominions into the castle of Churnagur, in order for ever to separate them from their principals, and deprive both of their reciprocal protection and services, and did order a further guard to be put on the palace of the grandmother of the nabob, an ally of the company, and to prevent the entrance of provisions to her, (which order relative to the guard only was executed) and did use sundry unworthy and insulting menaces, both with regard to herself and to her principal ministers.

XLV.—That a proposal was soon after made by the said princess and her daughter-in-law, praying that their ministers aforesaid should be returned to Fyzabad, and offering to raise a sum of money on that condition; as also that they would remove from one of their palaces, whilst the English were to be permitted to search the other. But the assistant resident, Johnson, did, instead of a compliance with the former of these propositions, send the following orders, dated 23d July, 1782, to the officer commanding the guard on the ministers aforesaid: "some violent demands having been made for the release of the prisoners, it is necessary that every possible precaution be taken for their security; you will therefore be pleased to be very strict in guarding them; and I herewith send *another pair of fetters to be added to those now upon the prisoners*."

And in answer to the second proposition, the said resident did reply in the following terms: "the proposal of evacuating one palace, that it may be searched, and then evacuating the next upon the same principle, is apparently fair: but it is well known in the first place, that such bricked up, or otherwise hidden, treasure, is not to be hit upon in a day without a guide. I have therefore informed the nabob of this proposal, and if the matter is to be reduced to a search, he will go himself with such people as he may possess for information, together with the prisoners; and when in possession of the ground, by *punishing the prisoners*, or by such *other means as he may find most effectual* to forward a successful search upon the spot, he will avail himself of the proposal made by the bhow begum."

XLVI.—That, probably from the nabob's known and avowed reluctance to lend himself to the perpetration of the oppressive and iniquitous proceedings of the representative of the British government, the scandalous plan aforesaid was not carried into execution: and all the rigours practised upon the chief ministers of the ladies aforesaid at Lucknow being found ineffectual, and the princess mother having declared herself ready to deliver up every thing valuable in her possession, which Baher Ally Khân one of her confidential ministers aforesaid only could come at, the said change of prison was agreed to; but not until the nabob's mother aforesaid had engaged to pay, for the said change of prison, a sum of ten thousand pounds, (one half of which was paid on the return of the eunuchs,) and that "she would ransack the *zenana* (women's apartments) for kincobs, muslins, clothes, &c. &c. &c. and that she would even allow a deduction from the annual allowance made to her for her subsistence, in lieu of her jaghire."

XLVII.—That soon after the return of the aforesaid ministers to the place of their imprisonment at Fyzabad, bonds for the five thousand pounds aforesaid, and goods, estimated, according to the valuation of a merchant appointed to value the same, at the sum of forty thousand pounds, even allowing them to sell greatly under their value, were delivered to the commanding officer at Fyzabad; and the said commanding officer did promise to the begum to visit Lucknow with such proposals as he hoped would secure the *small balance* of fifteen thousand pounds remaining of the unjust exaction aforesaid. But the said resident Middleton did, in his letter of the 17th of the said month, positively refuse to listen to any terms, before the final discharge of the whole of the demand; and did positively forbid the commanding officer to come to Lucknow to make the proposal aforesaid, in the terms following: "as it is not possible to listen to *any* terms from the begums, before the final discharge of their conditional agreement for fifty-five lacks, your coming here upon such an agency can only *be loss of time* in completing the recovery of the balance of 6,55,000, for which your regiment was sent to Fyzabad. I must therefore desire you will leave *no efforts, gentle or harsh*, unattempted to complete this, before you move from Fyzabad; and I am very anxious that this should be as soon as possible, *as I want to employ your regiment upon other emergent service now suffering by every delay*."

XLVIII.—That the goods aforesaid were sent to Lucknow, and disposed of in a manner unknown; and the harsh and oppressive measures aforesaid being still continued, the begum did, about the middle of October, 1782, cause to be represented to the said Middleton as follows: "that her situation was truly pitiable; her estate sequestered; her treasury ransacked; her cojahs prisoners; and her servants deserting daily from want of subsistence. That she had solicited the loan of money, to satisfy the demands of the company, from every person that she imagined would or could assist her with any, but that the opulent would not listen to her adversity. She had hoped, that the wardrobe sent to Lucknow might have sold for at least one half of the company's demands on her; but even jewellery and goods, she finds from woful experience, lose their value the moment it is known they come from her. That she had now solicited the loan of cash from Almas Ally Cawn, and if she failed in that application, she had no hopes of ever borrowing a sum equal to the demand."—A hope not likely to be realized, as the said Almas Ali was then engaged for a sum of money to be raised for the company's use, on the security of their confiscated lands, the restoration of which could form the only apparent security for a loan.

XLIX.—That this remonstrance produced no effect on the mind of the aforesaid resident; who being about this time removed from his residency, did, in a letter to his successour, Mr. Bristow, dated 23d October, 1782, in effect, recommend a perseverance in the cruel and oppressive restraints aforesaid, as a cer-

tain means of recovering the remainder of the extorted bond; and that the lands, with which the princesses aforesaid had been endowed, should not be restored to them.

L.—That the said Warren Hastings was duly apprized of all the material circumstances in the unjust proceedings aforesaid; but did nothing to stop the course they were in, or to prevent, relieve, or mitigate, the sufferings of the parties affected by them; on the contrary, he did, in his letter of the 25th of January, 1782, to the resident Middleton, declare, that the nabob having consented to the "resumption of the jaghires held by the begums, and to the confiscation of their treasures, and thereby involved my own name, and the credit of the company in a participation of both measures, I have a right to *require and insist on the complete execution of them*; and I look to you for their execution, declaring, that I shall hold you accountable for it." And it appears, that he did write to the nabob a letter in the same peremptory manner; but the said letter has been suppressed.

LI.—That he, the said Hastings, further did manifest the concern he took in, and the encouragement which he gave to, the proceedings aforesaid, by conferring honours and distinctions upon the ministers of the nabob, whom he, the nabob, did consider as having in the said proceedings disobeyed him and betrayed him, and as instruments in the dishonour of his family, and the usurpation of his authority.—That the said ministers did make addresses to the said Hastings for that purpose (which addresses the said Hastings hath suppressed); and the resident Middleton did, with his letter of the 11th of February, 1782, transmit the same; and did, in the said letter, acquaint the said Hastings, "that the ministers of the nabob had incurred much odium on account of their participation in his measures, and that they were not only considered by the party of the dispossessed jaghiredars, and the mother and uncle of the nabob, but *by the nabob himself*, as the *dependants of the English government, which they certainly are, and it is by its declared and most obvious support alone*, that they can maintain the authority and influence which is indispensably necessary." And the said Middleton did therefore recommend, "that they should be honoured with some testimony of his (the said Hastings's) approbation and favour." And he, the said Warren Hastings, did send kellauts, or robes of honour (the most public and distinguished mode of acknowledging merit known in India) to the said ministers, in testimony of his approbation of their late services.

LII.—That the said Hastings did not only give the aforesaid public encouragement to the ministers of the nabob to betray and insult their master and his family, in the manner aforesaid, but when the said nabob did write several letters to him the said Hastings, expressive of his dislike of being used as an instrument in the dishonourable acts aforesaid, and refusing to be further concerned therein, he, the said Warren Hastings, did not only suppress and hide the said letters from the view of the court of directors, but in his instructions to the resident Bristow, did attribute them to Hyder Beg Khân, minister to the nabob, (whom in other respects he did before, and ever since, support against his master,) and did express himself with great scorn and contempt of the said nabob, and with much asperity against the said minister; affirming, in proud and insolent terms, that he had, "by an abuse of his influence over the nabob, he, the nabob himself, being (*as he ever must be in the hands of some person*) *a mere cipher in his* (*the said minister's*) *hands, dared* to make him (the nabob) *assume* a very *unbecoming* tone of refusal, reproach, and resentment, in opposition to *measures recommended by ME*, and even *to acts done by MY authority*;" the said Hastings, in the instruction aforesaid, particularizing the resumption of the jaghires, and the confiscation of the treasures that had been so long suffered to remain in the hands of his (the nabob's) mother. But the letters of the nabob, which in the said instructions he refers to, as containing an opposition to the measures recommended by him, and which he asserts was conveyed in a very unbecoming tone of refusal, reproach, and resentment, he the said Hastings hath criminally withheld from the company, contrary to their orders, and to his duty; and the more, as the said letters must tend to show in what manner the said nabob did feel the indignities offered to his mother, and the manner in which the said ministers, notwithstanding their known dependence on the English government, did express their sense of the part which their sovereign was compelled to act in the said disgraceful measures. And in further instructions to him the said new resident, he did declare his approbation of the evil acts aforesaid, as well as his resolution of compelling the nabob to those rigorous proceedings against his parent, from which he had long shown himself so very

averse, in the following words: "the severities, which have been increased towards the begums, were most justly merited, by the advantage which they took of the troubles in which I was personally involved last year, to create a rebellion in the nabob's government, and to complete the ruin which they thought was impending on ours." "If it is the nabob's desire to forget and to forgive their past offences, I have no objection to his allowing them, in pension, the nominal amount of their jaghires; but if he shall *ever offer* to restore their jaghires to them, or to give them any property in land, after the warning which they have given him by the dangerous abuse which they formerly made of his indulgence, you must remonstrate in the strongest terms against it; *you must not permit such an event to take place*, until this government shall have received information of it, and shall have had time to interpose its influence for the prevention of it." And the said Warren Hastings, who did, in the manner aforesaid, positively refuse to admit the nabob to restore to his mother and grandmother, any part of their landed estates for their maintenance, did well know that the revenues of the said nabob were at that time so far applied to the demands of the company, (by him the said Warren Hastings, aggravated beyond the whole of what they did produce,) or were otherwise so far applied to the purposes of several of the servants of the company and others, the dependants of him the said Hastings, that none of the pensions or allowances assigned by the said nabob, in lieu of the said estates confiscated, were paid, or were likely to be discharged with that punctuality, which was necessary even to the scanty subsistence of the persons, to which they were in name and appearance applied. For,

LIII.—That, so early as the 6th of March, 1782, Captain Leonard Jaques, who commanded the forces on duty for the purpose of distressing the several women in the palaces at Fyzabad, did complain to the resident, Richard Johnson, in the following words: "The women belonging to the Khord Mohul (or lesser palace) complain of their being in want of every necessary of life, and are at last driven to that desperation, that they at night get on the top of the zenanah, make a great disturbance, and last night not only alarmed the sentinels posted in the garden, but threw dirt at them; they threaten to throw themselves from the walls of the zenanah, and also to break out of it. Humanity obliges me to acquaint you of this matter, and to request to know if you have any directions to give me concerning it. I also beg leave to acquaint you I sent for Latafit Ali Khân, the cojah, who has the charge of them, and who informs me it is well grounded, that they *have sold every thing they had, even to the clothes from their backs, and now have no means of subsisting*."

LIV.—That the distresses of the said women grew so urgent on the night of the said 6th of March, the day when the letter above recited was written, that Captain Leonard Jaques aforesaid did think it necessary to write again, on the day following, to the British resident, in the following words: "I beg leave to address you again concerning the women in the Khord Mohul, [the lesser palace.] Their behaviour last night was so furious, that there seemed the greatest probability of their proceeding to the uttermost extremities, and that they would either *throw themselves from the walls, or force open the doors of the zenanah*. I have made every inquiry concerning the cause of their complaints, and find from Latafit Ally Khân, that they are in a *starving condition, having sold all their clothes and necessaries, and now have not wherewithal to support nature*; and as my instructions are quite silent on this head, I should be glad to know how to proceed in case they were to force the doors of the zenanah, as I suspect it will happen, should no subsistence be very quickly sent to them."

LV.—That in consequence of these representations, it appears that the said resident, Richard Johnson, did promise that an application should be made to certain of the servants of the nabob vizier, to provide for their subsistence.

LVI.—That Captain Jaques being relieved from the duty of imprisoning the women of Shuja ul Dowla, the late sovereign of Oude, an ally of the company, who dwelt in the said lesser palace, and Major Gilpin being appointed to succeed, the same malicious design of destroying the said women, or the same scandalous neglect of their preservation and subsistence, did still continue; and Major Gilpin found it necessary to apply to the new resident, Bristow, in a letter of the 30th of October, 1782, as follows:

LVII.—"Sir,—Last night, about eight o'clock, the women in the khord mohul [lesser palace] or zenanah [women's apartment] under the charge of Latafut Ally Khân, assem-

bled on the tops of the buildings, *crying in a most lamentable manner for food, that for the last four days they had got but a very scanty allowance, and that yesterday they had got none.*

LVIII.—" *The melancholy cries of famine are more easily imagined than described*; and from their representation, I fear the nabob's agents for that business are very inattentive; I therefore think it requisite to make you acquainted with the circumstance, that his excellency the nabob may cause his agents to be more circumspect in their conduct towards these poor unhappy women."

LIX.—That, although the resident Bristow did not then think himself authorized to remove the guard, he did apply to the minister of the nabob, who did promise some relief to the women of the late nabob, confined in the lesser palace; but apprehending, with reason, that the minister aforesaid might not be more ready or active in making the necessary provision for them than on former occasions, he did render himself personally responsible to Major Gilpin for the repayment of any sum equal to one thousand pounds sterling, which he might procure for the subsistence of the sufferers. But whatever relief was given (the amount thereof not appearing) the same was soon exhausted; and the number of persons to be maintained in the said lesser palace being eight hundred women, the women of the late sovereign, Shuja ul Dowla, and several of the younger children of the said sovereign prince, besides their attendants, Major Gilpin was obliged, on the 15th of November following, again to address the resident by a representation of this tenour: "Sir, the repeated cries of the women in the Khord Mohul Zenanah for subsistence have been truly melancholy.

LX.—" *They beg most piteously for liberty, that they may earn their daily bread by laborious servitude, or to be relieved from their misery by immediate death.*

LXI.—" In consequence of their unhappy situation, I have this day taken the liberty of drawing on you in favour of Ramnarain, at ten days sight, for twenty Son Kerah rupees, ten thousand of which I have paid to Cojah Latafut Ally Cawn, under whose charge that zenanah is."

LXII.—That, notwithstanding all the promises and reiterated engagements of the minister Hyder Beg Khân, the ladies of the palace aforesaid fell again into extreme distress; and the resident did again complain to the said minister, who was considered to be, and really and substantially was, the minister of the governour-general Warren Hastings aforesaid, and not of the nabob, (the said nabob being, according to the said Hastings's own account, "a cipher in his [the said minister's] hands,") that the funds allowed for their subsistence were not applied for their support. But notwithstanding all these repeated complaints and remonstrances, and the constant promise of amendment on the part of his, the said Hastings's minister, the supply was not more plentiful or more regular than before.

LXIII.—That the said resident Bristow, finding, by experience, the inefficacy of the courses which had been pursued with regard to the mother and grandmother of the reigning prince of Oude, and having received a report from Major Gilpin, informing him that all which could be done by force, had been done; and that the only hope which remained, for realizing the remainder of the money unjustly exacted as aforesaid, lay in more lenient methods; he, the said resident, did, of his own authority, order the removal of the guard from the palaces, the troops being long and much wanted for the defence of the frontier, and other material services; and did release the said ministers of the said women of rank, who had been confined and put in irons, and variously distressed and persecuted, as afore-recited, for near twelve months.

LXIV.—That the manner in which the said inhuman acts of rapacity and violence were felt both by the women of high rank concerned, and by all the people, strongly appears in the joy expressed on their release, which took place on the 5th of December, 1782; and is stated, in two letters of that date from Major Gilpin to the resident, in the words following:

LXV.—" I have to acknowledge the receipt of your letter of the 2d instant, and in consequence immediately enlarged the prisoners Behar Ally Khân and Jewar Ally Khân from their confinement; a circumstance that gave the begums, and the city of Fyzabad in general, the greatest satisfaction.

LXVI.—" In tears of joy, Behar and Jewar Ally Khân expressed their sincere acknowledgments to the governour-general, his

excellency the nabob vizier, and to you, sir, for restoring them to that invaluable blessing, liberty, for which they would ever retain the most grateful remembrance; and, at their request, I transmit you the enclosed letters.

LXVII.—"I wish you had been present at the enlargement of the prisoners. The quivering lips, with the tears of joy stealing down the poor men's cheeks, was a scene truly affecting.

LXVIII.—"If the prayers of these poor men will avail, you will, at the LAST TRUMP! be translated to the happiest regions in heaven."

LXIX.—And the resident Bristow, knowing how acceptable the said proceeding would be to all the people of Oude, and the neighbouring independent countries, did generously and politically (though not truly) in his letter to the princess mother attribute the said relief given to herself, and the release of her ministers, to the humanity of the said Warren Hastings, agreeably to whose orders he pretended to act; asserting that he, the said Hastings, "was the spring from whence she was restored to her dignity and consequence." And the account of the proceedings aforesaid was regularly transmitted to the said Warren Hastings on the 30th of December, 1782, with the reasons and motives thereto, and a copy of the report of the officer concerning the inutility of further force, attended with sundry documents concerning the famishing, and other treatment, of the women and children of the late sovereign; but the same appear to have made no proper impression on the mind of the said Warren Hastings; for no answer whatsoever was given to the said letter until the 3d of March, 1783, when the said Hastings, writing in his own character and that of the council, did entirely pass by all the circumstances before recited, but did give directions for the renewal of measures of the like nature and tendency with those, which (for several of the last months at least of the said proceeding) had been employed with so little advantage to the interest, and with so much injury to the reputation, of the company, his masters, in whose name he acted; expressing himself in the said letter of the 3d of March, 1783, as follows: "We desire you will inform us what means have been taken for recovering the balance [the pretended balance of the extorted money] due from the begums [princesses] at Fyzabad; and, if necessary, you must recommend it to the vizier *to enforce the most effectual means* for that purpose." And the resident did, in his answer to the board, dated 31st March, 1783, on this peremptory order, again detail the particulars aforesaid to the said Warren Hastings, referring him to his former correspondence, stating the utter impossibility of proceeding further by force, and mentioning certain other disgraceful and oppressive circumstances; and in particular, that the company did not, in plundering the mother of the reigning prince of her wearing apparel and beasts of carriage, receive a value in the least equal to the loss she suffered; the elephants having no buyer but the nabob, and the clothes, which had last been delivered to Middleton at a valuation of thirty thousand pounds, were so damaged by ill keeping in warehouses, that they could not be sold, even for six months credit, at much more than about eight thousand pounds; by which a loss in a single article was incurred of twenty-two thousand pounds out of the fifty, for the recovery of which (supposing it had been a just debt) such rigorous means had been employed, after having actually received upwards of five hundred thousand pounds in value to the company, and extorted much more in loss to the suffering individuals. And the said Bristow, being well acquainted with the unmerciful temper of the said Hastings, in order to leave no means untried to appease him, not contented with the letter to the governour-general and council, did, on the same day, write another letter *to him particularly*, in which he did urge several arguments, the necessity of using of which to the said Hastings, did reflect great dishonour on this nation, and on the christian religion therein professed; viz. "that he had experienced great embarrassment in treating with her, [the mother of the reigning prince,] for, as the mother of the vizier, the people look up to her with great respect; and any hard measures, practised against women of her high rank, create discontent, and affect our national character." And the said resident, after condemning, very unjustly, her conduct, added, "still she is the mother of the prince of the country, and the religious prejudices of *mussulmen* prevail too strongly in their minds to forget her situation.

LXX.—That the said Warren Hastings did not make any answer to the said letter. But the mother of the prince aforesaid, as well as the mother of his father, being, in consequence of his the said Hastings's directions, incessantly and rudely pressed by their descendant, in the name of the company, to pay

to the last farthing of the demand, they did both positively refuse to pay any part of the pretended balances aforesaid, until their landed estates were restored to them; on the security of which alone they alleged themselves to be in a condition to borrow any money, or even to provide for the subsistence of themselves and their numerous dependants. And, in order to put some end to these differences, the vizier did himself, about the beginning of August, 1783, go to Fyzabad, and did hold divers conferences with his parents, and did consent and engage to restore to them their landed estates aforesaid; and did issue an order, that they should be restored accordingly: but his minister aforesaid, having before his eyes the peremptory orders of him the said Warren Hastings, did persuade his master to dishonour himself, in breaking his faith and engagement with his mother and the mother of his father, by first evading the execution, and afterwards totally revoking his said public and solemn act, on pretence that he had agreed to the grant "from shame, being in their presence, [the presence of his mother and grandmother,] and that it was unavoidable at the time;"—the said minister declaring to him, that it would be sufficient if he allowed them "money for their *necessary* expenses, and that would be *doing enough*."

LXXI.—That the faith given for the restoration of their landed estates being thus violated, and the money for necessary expenses being as ill supplied as before, the women and children of the late sovereign, father of the reigning prince, continued exposed to frequent want of the common necessaries of life; and, being sorely pressed by famine, they were compelled to break through all the principles of local decorum and reserve, which constitute the dignity of the female sex in that part of the world, and after great clamour and violent attempts, for one whole day, to break the enclosure of the palace, and to force their way into the public market, in order to move the compassion of the people, and to beg their bread, they did, on the next day, actually proceed to the extremity of exposing themselves to public view—an extremity, implying the lowest state of disgrace and degradation; to avoid which many women in India have laid violent hands upon themselves—and they did proceed to the public market-place with the starving children of the late sovereign, and the brothers and sisters of the reigning prince!—A minute account of the transaction aforesaid was written to the British resident at Lucknow by the person appointed to convey intelligence to him from Fyzabad, in the following particulars, highly disgraceful to the honour, justice, and humanity of this nation:

LXXII.—"The ladies, their attendants, and servants, were still as clamorous as last night. Letafut, the deroga, went to them and remonstrated with them on the impropriety of their conduct, at the same time assuring them, that in a few days all their allowances would be paid; and, should not that be the case, he would advance them ten days subsistence, upon condition, that they returned to their habitation. None of them, however, consented to his proposals; but were still intent upon making their escape through the bazar, [market-place,] and in consequence formed themselves into a line, arranging themselves in the following order: the children in the front; behind them the ladies of the seraglio; and behind them again their attendants; but their intentions were frustrated by the opposition which they met from Letafut's Sepoys.

LXXIII.—"The next day Letafut went twice to the women, and used his endeavours to make them return into the zenanah, promising to advance them 10.000 rupees; which, upon the money being paid down, they agreed to comply with; but night coming on, nothing transpired.

LXXIV.—"On the day following their clamours were more violent than usual. Letafut went to consult with them on the business of yesterday, offering the same terms. Depending upon the fidelity of his promises, they consented to return to their apartments, which they accordingly did, except two or three of the ladies, and most of their attendants. Letafut then went to Hushmund Ally Cawn, to consult with him upon what means they should take. They came to a resolution of driving them in by force; and gave orders to their sepoys to beat any one of the women who should attempt to move forward. The sepoys consequently assembled; and, each one being provided with a bludgeon, they drove them, by dint of beating, into the zenanah. The women, seeing the treachery of Letafut, proceeded to throw stones and bricks at the sepoys, and again attempted to get out; but finding that impossible, from the gates being shut, they kept up a continual discharge of stones and bricks till about ten; when finding their situation desperate, they retired into the kung mohul, and forced their way from thence into

the palace, and dispersed themselves about the house and garden; after this they were desirous of getting into the begum's apartment, but she being apprized of their intention ordered her doors to be shut. In the mean time, Letafut and Hushmund Ally Cawn posted sentries to secure the gates of the lesser mahal. During the whole of this conflict, all the ladies and women remained exposed to the view of the sepoys. The begum then sent for Letafut and Hushmund Ally Cawn, whom she severely reprimanded, and insisted upon knowing the causes of this infamous behaviour. They pleaded in their defence the impossibility of helping it, as the treatment the women had met with had been conformable to his excellency the vizier's orders. The begum alleged, that even admitting, that the nabob had given those orders, they were by no means authorized in this manner to disgrace the family of Shuja Dowla; and should they not receive their allowance for a day or two, it could be of no great moment: what was passed was now at an end, but that the vizier should certainly be acquainted with the whole of the affair, and that whatever he desired she should implicitly comply with. The begum then sent for five of the children, who were wounded in the affray of last night, and, after endeavouring to soothe them, she sent again for Letafut and Hushmund Ally Cawn, and in the presence of the children expressed her disapprobation of their conduct, and the improbability of Asuf ul Dowla's suffering the ladies and children of Shuja Dowla to be disgraced by being exposed to the view of the rabble. Upon which Letafut produced the letter from the nabob, at the same time representing, that he was amenable only to the orders of his excellency, and that whatever he ordered it was his duty to obey; and that had the ladies thought proper to have retired into their apartments quietly, he would not have used the means he had taken to compel them. The begum again observed, that what had happened was now over. She then gave the children 400 rupees, and dismissed them, and sent word by Jumrud and the other eunuchs, that if the ladies would peaceably retire to their apartments, Letafut would supply them with 3 or 4,000 rupees for their personal expenses, and recommended to them not to incur any further disgrace, and that if they did not think proper to act agreeably to her directions, they would do wrong. The ladies followed her advice, and about ten at night went back into the zenanah. The next morning the begum waited upon the mother of Shuja Dowla, and related to her all the circumstances of the disturbances. The mother of Shuja Dowla returned for answer, that after there being no accounts kept of crores of revenues, she was not surprised, that the family of Shuja Dowla, in their endeavours to procure a subsistence, should be obliged to expose themselves to the meanest of the people. After bewailing their misfortunes, and shedding many tears, the begum took her leave, and returned home."

That the said affecting narrative being sent, with others of the same nature, on the 29th of January, 1784, to the said Warren Hastings, he did not order any relief in consequence thereof, or take any sort of notice whatsoever of the said intelligence.

LXXV.—That the court of directors did express strong doubts of the propriety of seizing the estates aforesaid, and did declare to him the said Hastings, "that the only consolation they felt on the occasion is, that the amount of those jaghires, *for which the company were guarantees*, is to be paid *through our resident at the court of the vizier*; and it very materially concerns the credit of your governour on no account to *suffer such payments to be evaded*." But the said Warren Hastings did never make the arrangement supposed in the said letter to be actually made, nor did he cause the resident to pay them the amount of their jaghires, or to make any payment to them.

And the said Hastings being expressly ordered by the court of directors to restore to them their estates, in case the charges made upon them should not be found true, he the said Hastings did contumaciously and cruelly decline any compliance with the said orders until his journey to Lucknow, when he did, as he says, "conformably to the orders of the court of directors, and more to the inclination of the nabob vizier, restore to them their jaghires, but with the defalcation, according to his own account, of a *large portion* of their respective shares;" pretending, without the least probability, that the said defalcation was a "voluntary concession on their part." But what he has left to them for their support, or in what proportion to that which he has taken away, he has no where stated to the court of directors, whose faith he has broken, and whose orders he has thus eluded, whilst he pretended to yield *some* obedience to them.

LXXVI.—That the said Warren Hastings having made a malicious, and ill-supported charge, backed by certain unsatisfactory

affidavits, as a ground for his seizing on the jaghires, and the treasures of the vizier's mother, solemnly guarantied to them; the court of directors did, in their letter of the 14th of February, 1783, express themselves as follows concerning that measure;—"which the governour-general (he the said Warren Hastings) in his letter to your board the 23d January, 1782, has declared *he strenuously encouraged and supported;* we hope and trust, for the honour of the British nation, that the measure appeared fully justified in the eyes of all Hindostan. The governour-general has informed us, that it can be well attested, that the begums (the mother and grandmother of the nabob aforesaid) *principally* excited and supported the late commotions; and that they carried their inveteracy to the English nation so far, *as to aim at our utter extirpation.*"—And the court of directors did further declare as follows:—"that it no where appears from the papers at present in our possession, that they (the mother and grandmother of the nabob of Oude) excited any commotions previous to the imprisonment of Rajah Cheit Sing, and only armed themselves in consequence of that transaction; and it is probable, that such a conduct proceeded from motives of self-defence, under an apprehension that they themselves might likewise be laid under unwarrantable contributions."—And the said court of directors, in giving their orders for the restoration of the jaghires, or for the payment of an equivalent through the resident, did give this order for the restoration of their estates as aforesaid on condition, that it should appear from inquiry, that they were not guilty of the practices charged upon them by the said Hastings. Mr. Stables, one of the council-general, did, in execution of the said conditional order, propose an inquiry, leading to the ascertainment of the condition, and did enter a minute as follows: "that the court of directors, by their letters of the 14th of February, 1784, seem not to be satisfied, that the disaffection of the begums to this government is sufficiently proved by the evidence before them; I therefore think, that the late and present resident, and commanding officer in the vizier's country at the time, should be called on to collect what further information they can on this subject, in which the honour and dignity of this government is so *materially concerned;* and that such information may be transmitted to the court of directors." And he did further propose heads and modes of inquiry, suitable to the doubts expressed by the court of directors. But the said Warren Hastings, who ought, long before, on principles of natural justice, to have instituted a diligent inquiry in support of his so improbable a charge, and was bound, even for his own honour, as well as for the satisfaction of the court of directors, to take a strong part in the said inquiry, did set himself in opposition to the same, and did carry with him a majority of council against the said inquiry into the justice of the cause, or any proposition for the relief of the sufferers; asserting, "that the reasons of the court of directors, if transmitted with the orders for the inquiry, will prove in effect an order for collecting evidence *to the justification and acquittal of the begums, and not for the investigation of the truth of the charges which have been preferred against them.*" That Mr. Stables did not propose, (as in the said Hastings's minute is groundlessly supposed,) that the reasons of the court of directors should be transmitted with the orders for an inquiry. But the apprehension of the said Warren Hastings of the probable result of the inquiry proposed did strongly indicate his sense of his own guilt, and the innocence of the parties accused by him; and if, by his construction, Mr. Stables's minute did indicate an inquiry merely for the justification of the parties by him accused, (which construction the motion did not bear,) it was no more than what the obvious rules of justice would well support: his own proceedings having been *ex parte;* he having employed Sir Elijah Impey to take affidavits against the women of high rank aforesaid, not only without any inquiry made on their part, but without any communication to them of his practice and proceedings against them; and equity did at least require, that they, with his own knowledge, and by the subordinates of his own government, should be allowed a public inquiry to acquit themselves of the heavy offences, with which they had been by him clandestinely charged.

LXXVII.—That he, the said Hastings, in order to effectually stifle the said inquiry, did enter on record a further minute, asserting, that the said inquiry would be productive "of evils greater than any which have already taken place, *and which time has almost obliterated;*" as also the following—"If I am rightly informed, the nabob vizier and the begums are on terms of mutual good-will. It would ill become this government to interpose its influence by any act which might tend to revive their animosities, and a very slight occasion would be sufficient to effect it. They will instantly take fire on such a declaration,

proclaim the judgment of the company in their favour, demand a reparation of the acts, which they will construe wrongs, with such a sentence warranting that construction, and either accept the invitation, to the proclaimed scandal of the nabob vizier, which *will not add to the credit of our government;* or remain in his dominions, but not under his authority, to add to his vexations, and the disorders of the country, by continual intrigues and seditions. Enough already exists to affect his peace and the quiet of his people. If we cannot heal, let us not inflame, the wounds, *which have been inflicted.*"—"If the begums think themselves aggrieved to such a degree as to justify them in an *appeal to a foreign jurisdiction;* to appeal to it against a man standing in the relation of son and grandson to them; *to appeal to the justice of those, who have been the abettors and instruments of their imputed wrongs*, let us at least permit them to be the judges of their own feelings, and prefer their complaints, before we offer to redress them. They will not need to be prompted. I hope I shall not depart from the simplicity of official language in saying, the majesty of justice ought to be approached with solicitation, not descend to provoke or invite it, much less to debase itself by the suggestion of wrongs, and the promise of redress, with the denunciation of punishments before trial, and even before accusation."

LXXVIII.—That the said Warren Hastings, in attempting to pass an act of indemnity for his own crimes, and of oblivion for the sufferings of others, supposing, the latter *almost obliterated* by time, did not only mock and insult over the sufferings of the allies of the company, but did show an indecent contempt of the understandings of the court of directors; because his violent attempts on the property and liberty of the mother and grandmother of the ally aforesaid had not their first commencement much above two years before that time, and had been continued, without abatement or relaxation on his part, to the very time of his minute; the nabob having, by the instigation of his the said Hastings's instrument Hyder Beg Khan, not two months before the date of the consultation, been obliged a second time to break his faith with relation to the estates of his mother in the manner herein before recited. And the said Hastings did not, and could not, conceive that the clearing the mother could revive any animosity betwen her and her son, by whom she never had been accused. The said Hastings was also sensible, that the restoration of her landed estates, recommended by the court of directors, could not produce any ill effect on the mind of the said son, as it was "with almost unconquerable reluctance he had been persuaded to deprive her of them." And at the time of his submitting to become an instrument in this injustice, did "declare" both to the resident and his ministers, that it was an act of compulsion."

LXXIX.—That the said Hastings further, by insinuating, that the women in question would act amiss in appealing to a *foreign jurisdiction* against a son and grandson, could not forget, that he himself, being that foreign jurisdiction (if any jurisdiction there was) did himself direct and order the injuries; did himself urge the calumnies; and did himself cause to be taken and produced the unsatisfactory evidence, by which the women in question had suffered; and that it was against him the said Hastings, and not against their son, that they had reason to appeal. But the truth is, that the inquiry was moved for by Mr. Stables, not on the prayer, or appeal, of the sufferers, but upon the ill impression, which the said Hastings's own conduct, merely and solely on his own state of it, and on his own evidence in support of it, had made on the court of directors, who were his lawful masters, and not suitors in his court. And his arrogating to himself and his colleagues to be a tribunal, and a tribunal, not for the purpose of doing justice, but of refusing inquiry, was an high offence and misdemeanour (particularly as the due obedience to the company's orders was eluded on the insolent pretence, "that the majesty of justice ought to be approached with solicitation, and that it would debase itself by the suggestion of wrongs and the promise of redress,") in a governour, whose business it is, even of himself, and unsolicited, not only to promise, but to afford, redress to all those who should suffer under the power of the company, even if their ignorance, or want of protection, or the imbecility of their sex, or the fear of irritating persons in rank and station, should prevent them from seeking it by formal solicitation.

LXXX.—That the said Warren Hastings, at the time when he pretended ignorance of all solicitation for justice on the part of the women aforesaid, and on that pretence did refuse the inquiry moved by his colleague, Mr. Stables, had in all probability received from

the resident Middleton, or if he had made the slightest inquiry from the said Middleton, then at Calcutta, might immediately receive, an account that, *they did actually solicit* the said resident, through Major Gilpin, for redress against his the said Hastings's calumnious accusation, and the false testimony by which it was supported; and did send the same complaint to the resident Middleton, by the said Gilpin, to be transmitted to him the said Hastings and the council so early as the 19th of October, 1782; and that she the mother of the nabob, did afterwards send the same to the resident Bristow, asserting their innocence, and accompanying the same with the copies of letters (the originals of which they asserted were in their hands) from the chief witnesses against them, Hannay and Gordon, which letters did directly overturn the charges or insinuations in the affidavits made by them; and that instead of any accusation of an attempt upon them and their parties by the instigation of the mother of the nabob, or by her ministers, they the said Hannay and Gordon did attribute their preservation to them, and to their services; and did, with strong expressions of gratitude both to the mother of the nabob and to her ministers, fully acknowledge the same. Which remonstrance of the mother of the nabob, and the letters of the said Hannay and Gordon, are annexed to this charge; and the said Hastings is highly criminal for not having examined into the facts alleged in the said remonstrance.

LXXXI.—That the violent proceedings of the said Warren Hastings did tend to impress all the neighbouring princes, some of whom were allied in blood to the oppressed women of rank aforesaid, with an ill opinion of the faith, honour, and decency of the British nation; and accordingly, on the journey aforesaid made by the nabob from Lucknow to Fyzabad, in which the said nabob did restore, in the manner before-mentioned, the confiscated estates of his mother and grandmother, and did afterwards revoke his said grant, it appears, that the said journey did cause a general alarm (the worst motives obtaining the most easy credit with regard to any future proceeding on account of the foregone acts,) and excited great indignation among the ruling persons of the adjacent country; insomuch that Major Brown, agent to the said Warren Hastings, at the court of the King Shaw Allum at Delhi, did write a remonstrance therein to Mr. Bristow, resident at Oude as follows:—" the evening of the 7th, at a conference I had with Mirza Shuffee Cawn, he introduced a subject respecting the nabob vizier, which, however it may be disagreeable for you to know, and consequently for me to communicate, I am under a necessity of laying before you. He told me he had received information from Lucknow, that, by the advice of Hyder Beg Cawn, the vizier had determined to bring his grandmother, the widow of Sufdar Jung, from Fyzabad to Lucknow, with a view of getting a further sum of money from her, by seizing on her eunuchs, digging up the apartments of her house at Fyzabad, and putting her own person under restraint. This, he said, he knew was not an act of our government, but the mere advice of Hyder Beg Cawn, to which the vizier had been induced to attend. He added, that the old begum had resolved rather to put herself to death than submit to the disgrace intended to be put upon her; that if such a circumstance should happen, there is *not a man in Hindostan, who will attribute the act to the vizier [nabob of Oude,] but every one will fix the odium on the English, who might easily, by the influence they so largely exercise in their own concerns there*, have prevented such unnatural conduct in the vizier. He therefore called upon me, as the English representative in this quarter, to inform you of this, that you may prevent a step which will destroy all confidence in the English nation throughout Hindostan, and excite the bitterest resentment in all those, who by blood are connected with the house of Sufdar Jung." He concluded by saying "that if the vizier so little regarded his family and personal honour, or his natural duty, as to wish to disgrace his father's mother for a sum of money, let him plunder her of all she has, but let him send her safe up to Delhi, or Agra, and poor as I am, I will furnish subsistence for her, which she shall possess with safety and honour, though it cannot be adequate to her rank.—This, sir, is a most exact detail of the conversation (as far as related to that affair) on the part of Mirza Shuffee Cawn. On my part I could only say, that I imagined the affair was misrepresented, and that I should write as he requested. Let me therefore request that you will enable me to answer, in a more effectual manner, any further questions on this subject."

LXXXII.—" As Mirza Shuffee's grandfather was brother to Sufdar Jung, there can be no doubt of what his declaration means, and if this measure of dismissing the old begum should be persisted in, I should not, from

the state of affairs, and the character of the Amir of Omrah, be surprized at some immediate and violent resolution be adopted by him."

LXXXIII.—That Mirza Shuffee, mentioned in this correspondence, (who has since been murdered) was of near kindred to the lady in question (grandmother to the nabob,) was resident in a province immediately adjoining to the province of Oude, and from proximity of situation and nearness of connexion, was likely to have any intelligence concerning his female relations from the best authority.

LXXXIV.—That the resident Bristow, on receiving this letter did apply to the said Hyder Beg Cawn for an explanation of the nabob's intentions, who denied, that the nabob intended more than a visit of duty and ceremony; which, whatever his dispositions might have been, and probably were, towards his own mother, was not altogether probable, as it was well known, that he was on very bad terms with the mother of his father; and it appears, that intentions of a similar nature had been before manifested even with regard to his own mother, and therefore obtained the more easy credit concerning the other women of high rank aforesaid, especially as the evil designs of the said Hyder Beg were abundantly known; and that the said Hastings, upon whom he did wholly depend, continued to recommend "the most effectual, that is, the most violent, means for the recovery of the small remains of his extorted demand." But although it does not appear, that the resident did give credit to the said report, yet the effect of the same on the minds of the neighbouring princes did make it proper and necessary to direct a strict inquiry into the same, which was not done; and it does not appear, that any further inquiry was made into the true motives for this projected journey to Fyzabad, nor into the proceedings of Hyder Beg Cawn, although the said Warren Hastings well knew, that all the acts of the nabob and his principal ministers were constantly attributed to him; and that it was known, that secret agents, as well as the company's regular agent, were employed by him at Lucknow and other places.

LXXXV.—That the said Hastings, who did, on pretence of the Majesty of justice, refuse to inquire into the charges made upon the female parents of the nabob of Oude, in justification of the violence offered to them, did voluntarily and of his own accord make himself an accuser of the resident Middleton, for the want of a literal execution of his orders in the plans of extortion and rapine aforesaid; the criminal nature, spirit, and tendency, of the said proceedings, for the defective execution of which he brought the said charge, appearing in the defence or apology made by Mr. Middleton, the resident, for his temporary and short forbearances.

LXXXVI.—"It could not, I flatter myself, be termed a long or unwarrantable delay, (two days) when the importance of the business, and the peculiar embarrassments attending the prosecution of it to its desired end are considered. The nabob was son to the begum whom we were to proceed against; a son against a mother must at least *save appearances in his mode of proceeding*. The produce of his negotiation was to be received by the company. Receiving a benefit, accompanying the nabob, withdrawing their protection, were circumstances sufficient to *mark the English as the principal movers in this business*. At a court, where no opportunity is lost to throw odium on us, so favourable an occasion was not missed to persuade the nabob, that we instigated him to dishonour his family for our benefit. The impressions made by these suggestions constantly retarded the progress and more than once actually broke off the business; which rendered the utmost caution on my part necessary, especially as I had no assistance to expect from the ministers, who could not openly move in the business. In the east it is well known that no man, either by himself or his troops, can enter the walls of a zenana, scarcely in the case of acting against an open enemy, much less of *an ally;—an ally acting against his own mother*. The outer walls, and the begum's agents, were all that were liable to immediate attack; they were dealt with, and successfully, as the event proved."—"He had before observed to Mr. Hastings, in his correspondence, what Mr. Hastings well knew to be true, "that no further rigour than that he had exerted could be used against females in that country; where force could be employed it was not spared. That the place of concealment was only known to the chief eunuchs, who could not be drawn out of the women's apartments, where they had taken refuge, and from which, if an attempt had been made to storm them, they might escape; and the secret of the money being known only to them, it was necessary to get their persons into his hands, which could be obtained by negotiation only."—The

resident concluded his defence by declaring his "hope, that if the main object of his orders was fulfilled, he should be no longer held criminal for a deviation from the precise letter of them."

LXXXVII.—That the said Warren Hastings did enter a reply to this answer, in support of his criminal charge, continuing to insist, "that his orders ought to have been literally obeyed," although he did not deny, that the above difficulties occurred, and the above consequences must have been the result; and though the reports of the military officers charged with the execution of his commission, confirmed the moral impossibility, as well as inutility in point of profit, of forcing a son to greater violence and rigour against his mother.

LXXXVIII.—That the said Hastings, after all the acts aforesaid, did presume to declare on record, in his minute of the 23d September, 1783, that whatever may happen of the events, which he dreads, in the train of affairs now subsisting, he shall at least receive this consolation under them, that he used his utmost exertions to prevent them; and that in the annals of the nations of India, which have been subjected to the British dominions, HE *shall not be remembered among their oppressours.*" And, speaking of certain alleged indignities offered to the nabob of Oude, and certain alleged suspicions of his authority with regard to the management of his household, he the said Hastings did, in the said minute, endeavour to excite the spirit of the British nation, severely animadverting on such offences, making use of the following terms: "If there be a spark of generous virtue in the breasts of any of my countrymen, who shall be the readers of this compilation, this letter [a letter of complaint from the nabob] shall stand for an instrument to awaken it to the call of vengeance against so flagitious an abuse of authority, and reproach to the British name.

From her Excellency the Bhow Begum to Mr. Bristow, Resident at the Vizier's court.

There is no necessity to write to you by way of information a detail of my sufferings, From common report, and the intelligence of those who are about you, the account of them will have reached your ears; I will here relate a part of them.

After the death of Shuja Dowla, most of his ungrateful servants were constantly labouring to gratify their enmity; but finding from the firm and sincere friendship, which subsisted between me and the English, that the accomplishment of their purposes was frustrated, they formed the design of occasioning a breach in that alliance, to insure their own success. I must acquaint you, that my son Asuf ul Dowla had formerly threatened to seize my jaghire: but upon producing the treaty signed by you, and showing it to Mr. Middleton, he interfered, and prevented the impending evil. —The conspiration now framed an accusation against me of a conduct, which I had never conceived even in idea, of rendering assistance to Rajah Cheit Sing. The particulars are as follow:—My son, Asuf ul Dowla and his ministers with troops and a train of artillery, accompanied by Mr. Middleton, on the 16th of the month of Mohurum, arrived at Fyzabad, and made a demand of a crore of rupees.—As my inability to pay to vast a sum was manifest, I produced the treaty *you* signed and gave me, but to no effect; their hearts were determined upon violence. I offerred my son, Asuf ul Dowla, whose will is dearer to me than all my riches, or even life itself, whatever money and goods I was possessed of; but an amicable adjustment seemed not worth accepting; he demanded the delivering up the fort, and the recall of the troops, that were stationed for the preserving the peace of the city. To me tumult and discord appeared unnecessary. I gave up these points, upon which they seized upon my head eunuchs, Jewar Ally Cawn and Behar Ally Cawn, and sent them to Mr. Middleton, after having obliged them to sign a bond for sixty lacks of rupees; they were thrown into prison, with fetters upon their feet, and denied food and water. I, who had never, even in my dreams, experienced such an oppression, gave up all I had to preserve my honour and dignity: but this would not satisfy their demands; they charged me with a rupee and a half batta upon each mohur, and on this account laid claims upon me to the amount of six lacks some thousand rupees, and sent Major Gilpin to exact the payment. Major Gilpin, according to orders, at first was opportunate; but being a man of experience, and of a benevolent disposition, when he was convinced of my want of means, he changed his conduct, and was willing to apply to the shroffs and bankers to lend me the money. But with the loss of my jaghires, my credit

was sunk: I could not raise the sum; at last, feeling my helpless situation, I collected my wardrobe and furniture, to the amount of about three lacks of rupees, besides fifty thousand rupees, which I borrowed from one place or other, and sent Major Gilpin with it to Lucknow. My sufferings did not terminate here. The disturbances of Colonel Hannay and Mr. Gordon were made a pretence for seizing my jaghire. The state of the matter is this; when Colonel Hannay was by Mr. Hastings ordered to march to Benares during the troubles of Cheit Sing, the Colonel, *who had plundered the whole country, was incapable of proceeding, from the union of thousands of zemindars, who had seized this favourable opportunity*; they harrassed Mr. Gordon near Junivard, and the zemindars of that place and Acberpore opposed his march from thence, till he arrived near Sanda. As the Sanda Nutta, from its overflowing, was difficult to cross without a boat, Mr. Gordon sent to the fouzdar to supply him: he replied, the boats were all in the river, but would according to orders assist him as soon as possible. Mr. Gordon's situation would not admit of his waiting; he forced the Nutta upon his elephant, and was hospitably entertained and protected by the fouzdar for six days. In the mean time a letter was received by me from Colonel Hannay, desiring me to escort Mr. Gordon to Fyzabad. As my friendship for the English was always sincere, I readily complied, and sent some companies of nejeebs to escort Mr. Gordon, and all his effects, to Fyzabad; where, having provided for his entertainment, I effected his junction with Colonel Hannay. The letters of thanks I received from both these gentlemen upon this occasion are still in my possession; copies of which I gave in charge to Major Gilpin, to be delivered to Mr. Middleton, that he might forward them to the governour-general. To be brief, those, who have loaded me with accusations. are now clearly convicted of falsehood. But is it not extraordinary, notwithstanding the justness of my cause, that nobody relieves my misfortunes? Why did Major Gilpin return without effect?

My prayers have been constantly offered to heaven for your arrival; report has announced it; for which reason I have taken up the pen, and request you will not place implicit confidence in my accusers, but weighing in the scale of justice their falsehoods and my representations, you will exert your influence in putting a period to the misfortunes with which I am overwhelmed.

Copy of a letter from Colonel Hannay to Jewar Ally Cawn and Bahar Ally Cawn.

I had the pleasure to receive your friendly letter, fraught with benevolence; and whatever favours you, my friends, have been pleased to confer respecting Mr. Gordon, afforded me the greatest pleasure.

Placing a firm reliance on your friendship, I am in expectation, that the aforesaid gentleman, with his baggage will arrive at Fyzabad in safety, that the same may oblige and afford satisfaction to me. A letter from Mr. Gordon is enclosed to you—I am in expectation of its being enclosed in a cover to the aumil of *Saunda*, to the end that the aumil may forward it to the above mentioned gentleman, and procure his reply. Whenever the answer arrives let it be delivered to Hoolas Roy, who will forward it to me.

Always rejoice me by a few lines respecting your health. (Continue to honour me with your correspondence.

Copy of a letter from Colonel Hannay to Jewar and Bahar Ally Cawn.

Cawn Saib, my indulgent friends, remain under the protection of God.

Your friendly letter, fraught with kindness accompanied by an honorary letter from the begum saib, of exalted dignity, and enclosing a letter from Mr. Gordon, sent through your hircarahs, obliged and rejoiced me.

With respect to what you communicate regarding your not having received an answer to your friendly epistle, I became perfectly astonished as a reply was written from Mohadree; it may be owing to the danger of the road, that it never arrived; not to the smallest neglect on my side (or of mine.)

I now send two letters to you; one by the dawk people, and the second by one of my hircarahs (who will present them to you) which you certainly will receive.

I am extremely well contented and pleased with the friendship you have shown.

You wrote me to remain perfectly easy concerning Mr. Gordon.—Verily, from the kindness of you, my indulgent friends, my heart is quite easy. You also observed and mentioned, that as Mr. Gordon's coming with those attached to him (probably his sepoys and others) might be attended with difficulty, if I approved he should be be invited alone to Fyzabad.—My friends, I place my expectations entirely upon your friendships, and leave

it to you to adopt the manner, in which the said gentleman may arrive in security without molestation at Fyzabad; but at the same time, let the plan be so managed, that it may not come to the knowledge of any zemindars; in this case, you are men of discernment. However, he is to come to Fyzabad; extend your assistance and endeavours.

It is probable, that the begum saib, of high dignity, has received authentic intelligence from the camp at Benares. Favour me with the contents or purport.

From Mr. Gordon's letter, I understand, that Mirza Imaum Baksh, whom you despatched thither (Saunda) has and still continues to pay great attention to that gentleman; which affords me great pleasure.

An answer to the begum's letter is to be presented. I also send a letter from Mr. Gordon, which please to forward.

An address from Colonel Hannay to the Begum.

Begum Saib, of exalted dignity and generosity, &c. whom God preserve.

Your exalting letter, fraught with grace and benevolence, that through your unbounded generosity and goodness was sent through grace and favour, I had the honour to receive in a fortunate moment; and whatever you were pleased to write respecting Mr. Gordon, "that as at this time the short-sighted and deluded ryots had carried their disturbances and ravages beyond all bounds, Mr. Gordon's coming with his whole people (or adherents) might be attended with difficulty; and therefore, if I chose, he should be invited to come alone." Now, as your highness is the best judge, your faithful servant reposeth his most unbounded hopes and expectation upon your highness, that the aforesaid Mr. Gordon may arrive at Fyzabad without any apprehension or danger. I shall be then extremely honoured and obliged.

Considering me in the light of a firm and faithful servant, continue to honour and exalt me by your letters.

What further can I say?

A copy of an address from Mr. Gordon to the Begum.

Begum Saib, of exalted dignity and generosity, whom God preserve.

After presenting the usual professions of servitude, &c. in the customary manner my address is presented.

Your gracious letter, in answer to the petition of your servant from Goondah, exalted me. From the contents, I became unspeakably impressed with the honour it conferred. May the Almighty protect that royal purity, and bestow happiness, increase of wealth, and prosperity.

The welfare of your servant is entirely owing to your favour and benevolence. A few days have elapsed since I arrived at Goondah with the Colonel Saib.

This is presented for your highness's information. I cherish hopes from your generosity, that, considering me in the light of one of your servants, you will always continue to exalt and honour me with your gracious letters.

May the sun of prosperity continually shine!

Copy of a Letter to Mahommed Jewar Ally Cawn and Bahar Ally Cawn, from Mr. Gordon.

Sirs, my indulgent friends,

Remain under, &c. &c.

After compliments. I have the pleasure to acquaint you, that yesterday, having taken leave of you, I passed the night at Noorgunge, and the next morning about ten or eleven o'clock, through your favour and benevolence, arrived safe at Goondah; Mur Aboo Buksh, zemindar, and Mur Rustum Ally, accompanied me.

To what extent can I prolong the praises of you, my beneficent friends? May the Supreme Being, for this benign, compassionate, humane action, have you in his keeping, and increase your prosperity, and speedily grant me the pleasure of an interview. Until which time continue to favour me with friendly letters, and oblige me by any commands in my power to execute.

May your wishes be ever crowned with success!

My compliments, &c. &c. &c.

Copy of a letter from Colonel Hannay to Jewar Ally Cawn and Bahar Ally Cawn.

Cawn Saib, my indulgent friends,

Remain under the protection of the Supreme Being.

After compliments, and signifying my earnest desire of an interview, I address you.

Your friendly letter, fraught with kindness, I had the pleasure to receive in a propitious hour, and your inexpressible kindness in send-

ing for Mur Nassar Ally with a force to Saunda, for the purpose of conducting Mr. Gordon, with all his baggage, who is now arrived at Fyzabad.

This event has afforded me the most excessive pleasure and satisfaction. May the Omnipotence preserve you, my steadfast firm friends. The pen of friendship itself cannot sufficiently express your generosity and benevolence, and that of the begum of high dignity, who so graciously has interested herself in this matter. Enclosed is an address for her, which please to forward. I hope from your friendship, until we meet, you will continue to honour me with an account of your health and welfare. What further can I write ?

V. REVOLUTIONS IN FARRUCKABAD.

I.—THAT a prince called Ahmed Khân was of a family amongst the most distinguished in Hindostan, and of a nation famous through that empire for its valour in acquiring, and its policy and prudence in well governing, the territories it had acquired, called the Patans, or Afghans, of which the Rohillas were a branch. The said Ahmed Khân had fixed his residence in the city of Farruckabad, and in the first wars of this nation in India the said Ahmed Khân attached himself to the company against Shuja Dowla, then an enemy, now a dependent on that company. Ahmed Khân, towards the close of his life, was dispossessed of a large part of his dominions by the prevalence of the Mahratta power: but his son, a minor, succeeded to his pretensions, and to the remainder of his dominions. The Mahrattas were expelled by Shuja ul Dowla, the late vizier, who, finding a want of the services of the son and successour of Ahmed Khân, called Mouzaffer Jung, did not only guaranty him in the possession of what he then actually held, but engaged to restore all the other territories, which had been occupied by the Mahrattas: and this was confirmed, by repeated treaties and solemn oaths by the late vizier and by the present; but neither the late nor the present vizier fulfilled their engagements, or observed their oaths: the former having withheld what he stipulated to restore, and the latter not only subjecting him to a tribute, instead of restoring him to what his father had unjustly withheld, but having made a further invasion by depriving him of fifteen of his districts, levying the tribute of the whole on the little that remained, and putting the small remains of his territory under a sequestrator or collector appointed by Almas Ali Khân, who did grievously afflict and oppress the prince and territory aforesaid.

That the hardships of his case being frequently represented to Warren Hastings, Esquire, he did suggest a doubt, whether "that little ought to be still subject to tribute," indicating, that the said tribute might be hard and inequitable; but whatever its justice might have been, that "from the *earliest period of* our connection with the present nabob of Oude, it had invariably continued a part of the funds assigned by his excellency as a provision for the liquidation of the several public demands of *this government* (Calcutta) upon him; and in consequence of the powers the board deemed it expedient to vest in the resident at his court, for the collection of the company's assignments, a sezauwil [a sequestrator] has always been stationed to enforce, by every means in his power, the payment of the tribute." And the said tribute was, in consequence of this arrangement, not paid to the nabob, but to the British resident at Oude; and the same being therefore under the direction, and for the sole use, of the company, and indeed the prince himself wholly dependent, the representatives of the said company were responsible for the protection of the prince, and for the good government of the country.

II.—That the said Warren Hastings did, on the 22d of May, 1780, represent to the board of Calcutta the condition of the said country, in the following manner:

"To the total want of all order, regularity, or *authority* in his government (the Farruckabad government) among *other obvious causes*, it may, no doubt, be owing, that the country of Farruckabad is become *an almost entire waste, without cultivation or inhabitants*; that the capital, which, but a very short time ago, was distinguished as one of the most *populous and opulent* commercial cities in Hindostan, at present exhibits nothing *but* scenes of the most wretched poverty, desolation, and misery: and the nabob himself, though in possession of a tract of country, which with only common care, is notoriously capable of yielding an annual revenue of between thirty and forty lacks (three or four hundred thousand pounds) with *no military establishment to maintain, scarcely commanding the means of bare subsistence.*" And the said Warren Hastings, taking into consideration the said state of the country, and its prince, and that the latter had *preferred frequent complaints* (which com-

plaints the said Hastings to that time did not lay before the board, as his duty required) "*of the hardships and indignities*, to which he is subjected by the conduct of the sezauwil [sequestrator] stationed in the country for the purpose of levying the annual tribute, which he is bound by treaty to pay to the soubah of Oude; he, the said Warren Hastings, did declare himself "extremely desirous, as well from motives *of common justice*, as *due* regard to the *rank which that chief holds among the princes of Hindostan*, of affording him relief." And he the said Warren Hastings, as the means of the said relief, did, with the consent of the board, order the said native sequestrator to be removed, and an English resident, a servant of the company, to be appointed in his room, declaring, "he understood a local interference to be *indispensably necessary* for realizing the vizier's just demands."

III.—That the said native sequestrator being withdrawn, and a resident appointed, no complaint whatever concerning the collection of the revenue, or of any indignities offered to the prince of the country, or oppression of his subjects by the said resident, was made to the superiour council at Calcutta; yet the said Warren Hastings did, nevertheless, in a certain paper, purporting to be a treaty made at Chunar with the nabob of Oude, on the 19th of September, 1781, at the request of the said nabob, consent to an article therein, "that no English resident be appointed to Farruckabad, and that the present be recalled;" and the said Warren Hastings, knowing that the nabob of Oude was ill affected towards the said nabob of Farruckabad, and that he was already supposed to have oppressed him, did justify his conduct on the principles, and in the words following: "that if the nabob Mozaffer Jung *must* endure oppression, (*and I dare not at this time propose his total relief*) it concerns the reputation of our government to remove our *participation in it*." And the said Warren Hastings making, recording, and acting upon the first of the said false and inhuman suppositions, most scandalous to this nation, namely, that princes paying money wholly for the use of the company, and directly to its agent, for the maintenance of British troops, by whose force and power the said revenue was in effect collected, must of necessity endure oppression, and that our government at any time *dare* not propose their *total* relief, was an high offence and misdemeanour in the said Warren Hastings, and the rather, because in the said treaty, as well as before and after, the said Hastings, who pretended not to dare to relieve those oppressed by the nabob of Oude, did assume a complete authority over the said nabob himself, and did dare to oppress him.

IV.—That the second principle, assumed by the said Warren Hastings as ground for voluntarily abandoning the protection of those whom he had before undertaken to relieve, *on the sole strength of his own authority*, and in full confidence of the lawful foundation thereof, and for delivering over the persons so taken into protection, under false names and pretended descriptions, to known oppression, asserting, that the reputation of the company was saved by removing this apparent participation, when the new, as well as the old, arrangements were truly and substantially acts of the British government, was disingenuous, deceitful, and used to cover unjustifiable designs, since the said Warren Hastings well knew, that all oppressions exercised by the nabob of Oude were solely, and in this instance particularly, upheld by British force, and were imputed to this nation; and because he himself, in not more than three days after the execution of this treaty, and in virtue thereof, did direct the British resident at Oude in orders, *to which he required his most implicit obedience*, "that the ministers (the nabob of Oude's ministers) are to choose *all* aumils and collectors of revenue with your concurrence." And the dishonour to the company in thus deceitfully concurring in oppression, which they were able and were bound to prevent, is much aggravated by the said Warren Hastings's receiving from the person, to whose oppression he had delivered the said prince, as a private gift or donation to himself, and for his own use, a sum of money, amounting to one hundred thousand pounds and upwards, which might give just ground of suspicion, that the said gift from the oppressour to the person surrendering the person injured to his mercy, might have had some share in the said criminal transaction.

V.—That the said Warren Hastings did (in the paper justifying the said surrender of the prince, put by himself under the protection of the East-India company) assert, "that it was a fact, that the nabob Muzzattor Jung (the nabob of Farruckabad) is equally urgent with the nabob vizier for the removal of a resident," without producing, as he ought to have done, any document to prove his improbable assertion, namely, his assertion

that the oppressed prince did apply to his known enemy and oppressour, the nabob of Oude, (who, if he would, was not able to relieve him against the will of the English government) rather than to that English government, which he must have conceived to be more impartial, to which he had made his former complaint, and which was alone able to relieve him.

VI.—That the said Warren Hastings, in the said writing, did further convey an insinuation of an ambiguous, but on any construction, of a suspicious and dangerous import; viz. "it is a fact, that Mr. Shee's (the resident's) authority over the territory of Farruckabad is in itself as much subversive of that (*of the lawful rulers*) as that of the vizier's aumil (collector) ever was, and is the more *oppressive*, as the power from whence it is derived is greater." The said assertion proceeds from a supposition of the illegality both of the nabob's and the company's government; all consideration of the *title* to authority being therefore, on that supposition, put out of the question, and the whole turning only upon the *exercise* of authority, the said Hasting's suggestion, that the oppression of government must be in proportion to its power, is the result of a false and dangerous principle, and such as it is criminal for any person entrusted with the lives and fortunes of men, to entertain, much more publicly to profess as a rule of action, as the same hath a direct tendency to make the new and powerful government of this kingdom in India dreadful to the natives, and odious to the world. But if the said Warren Hastings did mean thereby indirectly to insinuate, that oppressions had been actually exercised under the British authority, he was bound to inquire into these oppressions, and to animadvert on the person guilty of the same, if proof thereof could be had; and the more, as the authority was given by *himself*, and the person exercising it was by himself also named. And the said Warren Hastings did on another occasion assert, that "whether they were well or ill founded, he never had an opportunity to ascertain." But it is not true, that the said Hastings did or could want such opportunity; the fact being, that the said Warren Hastings did never cause any inquiry to be made into any supposed abuses, during the said residency, but did give a pension of fifteen hundred pounds a year to the said late resident, as a compensation to him for an injury received, and did afterwards promote the resident, as a faithful servant of the company, (and nothing appears to show him otherwise) to a judicial office of high trust; thereby taking away all credit from any grounds asserted or insinuated by the said Hastings for delivering the said nabob of Farruckabad to the hand of a known enemy and oppressour, who had already, contrary to repeated treaties, deprived him of a large part of his territories.

VII.—That on the said Warren Hastings's representation of the transaction aforesaid to the court of directors, they did heavily and justly censure the said Warren Hastings for the same, and did convey their censure to him, recommending relief to the suffering prince, but without any order for sending a new resident; being, as it may be supposed, prevented from taking that step by the faith of the treaty made at Chunar.

VIII.—That all the oppressions foreseen by him the said Warren Hastings, when he made the article aforesaid in the treaty of Chunar, did actually happen; for, immediately on the removal of the British resident, the country of Farruckabad was subjected to the discretion of a certain native manager of revenue, called Almas Ali Khân, who did impoverish and oppress the country, and insult the prince, and did deprive him of all subsistence from his own estates; taking from him even his gardens, and the tombs of his ancestors, and the funds for maintaining the same.

IX.—That, on complaint of those proceedings, the said Hastings did, of his own authority, and without communicating with his council, direct the native collector aforesaid to be removed, and the territory of Farruckabad to be left to the sole management of its natural prince. But in a short time the said Hastings, pretending to receive many complaints, purporting that the tribute to the nabob remained wholly unpaid, and the agent to the prince of Farruckabad at the presidency, and afterwards chief manager to the prince aforesaid, having, as the said Warren Hastings saith, "had the insolence to propagate a report that the *interference*, to which his master owed the power he then enjoyed, was *purchased* through him," he the said Hastings did again (but, as before, without the council) "withdraw his protection and interference altogether" on or about the month of August, 1782, and did signify his resolution, through the resident Middleton, to the nabob vizier. But the said Hastings asserts "that the con-

sequence of this his own second dereliction of the prince of Farruckabad was an *aggravated renewal of the severities* exercised against his government, and the re-appointment of a sezawall, with powers delegated or assumed, to the *utter extinction* of the rights of Muzuffer Jung, and actually depriving him of the means of subsistence." And the said Hastings did receive, on the 16th of February, 1783, from the prince aforesaid, a bitter complaint of the same to the following tenour:

"The miseries which have fallen upon my country, and the poverty and distress which have been heaped upon me by the re-appointment of the sezawall are such, that a relation of them would, I am convinced, excite the strongest feelings of compassion in your breast. But it is impossible to relate them; on one side, my country ruined, and uncultivated, to a degree of desolation which exceeds all description; on the other, my domestic concerns and connections involved *in such a state of distress and horrour, that even the relations, the children, and the wives of my father, are starving in want of daily bread, and are on the point of flying voluntary exiles from their country, and from each other.*"

But although the said Hastings did, on the 16th of February, receive and admit the justice of the said complaint, and did not deny the urgent necessity of redress, the said letter containing the following sentence: "if there should by *any delay* in your acceptance of this proposal, *my existence and the existence of my family will become difficult and doubtful:*" and although he did admit the interference to be the more urgently demanded, "as the services of the English troops have been added to enforce the authority of the sezawall," and although he admits also, that even before that time similar complaints and applications had been made, yet he did withhold the said letter of complaint, a minute of which he asserts he had, at or about that time, prepared for the relief of the sufferer, from the board of council, and did not so much as propose any thing relative to the same for seven months after, viz. until the 6th of October, 1783; the said letter and minute being, as he asserts, "*withheld*, from causes *not necessary to mention*, from presentation." By which means the said country and prince did suffer a long continuance of unnecessary hardship, from which the said Hastings confessed it was his duty to relieve them, and that a British resident was necessary at Farruckabad "from a sense of submission to the *implied* orders of the court of directors, in their letter of 1783, lately received, added to the *conviction I have LONG SINCE* entertained *of the necessity of such an appointment for the preservation of our national credit*, and the means of rescuing an ancient and respectable family from ruin."

And the said Warren Hastings did at length perform what he thought had *long since* been necessary, and in contradiction to his engagements with the nabob in the treaty of Chunar; and against his strong remonstrances, urging his humiliation from this measure, and the faith of the agreement, and against his own former declaration, that it concerned the reputation of our government to remove our participation in the oppressions, which he, the said Hastings, supposed the prince of Farruckabad must undergo, did once more recommend to the council a British resident at Farruckabad, and the withdrawing the native sezawall; no course being left to the said Hastings to take, which was not a violation of some engagement, and a contradiction to some principle of justice and policy by him deliberately advanced, and entered on record.

That Mr. Willes being appointed resident, and having arrived at Farruckabad on the 25th of February, 1784, with instructions to inquire minutely into the state of the country and the ruling family, he, the said resident Willes, in obedience thereto, did fully explain to him, the governour-general, the said Warren Hastings, (he being then out of the company's provinces, at Lucknow, on a delegation, which respected this very country as part of the dependencies of Oude) the situation of the province of Farruckabad; but the said Warren Hastings did not take or recommend any measure whatsoever for the relief thereof in consequence of the said representation; nor even communicate to the council-general the said representation; and it was not until the 28th of June, 1783, that is, sixteen months from the arrival of the resident at his station, that any thing was laid before the board relative to the regulation or relief of the distressed country aforesaid, and that, not from the said Warren Hastings, but from other members of the council; which purposed neglect of duty, joined to the preceding wilful delay of seven months in proposing the said relief originally, caused near two years delay. And the said Warren Hastings is, further culpable in not communicating to the council board the order, which he had, of his own authority, and without any powers from them, given to the said resident Willes, and did thereby prevent them from taking such steps as might counteract the ill effects of the said order; which order pur-

ported that the said Willes was not to interfere with the nabob of Farruckabad's government, for the regulation of which he was in effect appointed to the residency; declaring as follows: I rely much on your moderation and good judgment, which I hope will enable you to regulate your conduct towards the nabob and his *servants* in such a manner, that, *without interfering in the executive part of his government*, you may render him essential service by *your council and advice*." And this restriction the said Hastings did impose, which totally frustrated the purpose of the resident's mission, though he well knew, and had frequently stated, the extreme imbecility and weakness of the said nabob of Farruckabad, and his subjection to unworthy servants. And in the minute of consultation, upon which he founded the appointment, he did state the nabob of Farruckabad "as a weak and unexperienced young man, who had abandoned himself entirely to the discretion of his servants; and the restoration of his independence was followed by a *total* breach of the engagements he had promised to fulfil, attended by pointed instances of contumacy and disrespect." And in the said minute the said Hastings adds (as before mentioned) his principal servant and manager had propagated a report, that the "*interference*, (namely his the said Hastings's interference) to which his master owed the power he then enjoyed, was purchased by him," the principal servant aforesaid; yet he, the said Hastings, who had assigned on record the character of the said nabob, and the conduct of his servants, and the aforesaid report of his principal servant, so highly dishonourable to him the said Hastings, as reasons for taking away the independency of the nabob of Farruckabad, and the subjecting him to the oppression of the nabob of Oude's officer, Almar Ali, did again establish the pretended independence of the said prince of Farruckabad, and the real independence of his corrupt and perfidious servants, not against the nabob of Oude, but against a British resident appointed by himself ("as a character eminently qualified for such a charge") for the correction of those evils, and for rendering the prince aforesaid an useful ally to the company, and restoring his dominions to order and plenty.

That the said Hastings did not only disable the resident at Farruckabad by his said prohibitary letter, but did render his very remaining at all in that station perfectly precarious by a subsequent letter, rendering him liable to dismission by the vizier—thereby changing the tenure of the resident's office, and changing him from a minister of the company, dependant on the governour-general in council, to a dependant upon an unresponsible power; in this also acting without the council, and by his own usurped authority: and accordingly the resident did declare in his letter of the 24th of April, 1785, "that the situation of the country was *more* distressful than when he (the prince of Farruckabad) addressed himself for relief in 1783, and that he was sorry to say, that his appointment at Farruckabad was of no use." That though the old tribute could not be paid, owing to famine, and other causes, it was increased by a new imposition, making the whole equal the entire *gross* produce of the revenue; and therefore there will not be "*any thing for the subsistence of the nabob and family*." And the uncles of the said nabob of Farruckabad, the brethren of the late Ahmed Khân (who had rendered important services to the company) and their children, in a petition to the resident, represented, that soon after the succession of Mouzaffer Jung "their misery commenced. The jaghires, (lands and estates,) on which they subsisted, were disallowed. Our distress is great, we have neither clothes nor food. Though we felt hurt at the idea of explaining our situation, yet, could we have found a mode of conveyance, we would have proceeded to Calcutta for redress. The scarcity of grain this season is an additional misfortune. With difficulty we support life. From your presence without the provinces we expect relief. It is not the custom of the company to deprive the zemindars and jaghiredars of the means of subsistence. To your justice we look up."

This being the situation of the person and family of the nabob of Farruckabad and his nearest relations, the state of country and its capital, prevented from all relief by the said Warren Hastings, is described, in the following words, by the resident Willes:

"Almas Ali has taken the pergunnah of Marara at a very inadequate rent, and his aumils have seized many adjacent villages; the pergunnahs of Cocutmow and Souje are constantly plundered by his people. The collection of the gauts near Futty Ghur has been seized by the vizier's cutwal, and the zemindars in four pergunnahs are so refractory as to have fortified themselves in their gurries, and to refuse all payments of revenue. This is the state of the pergunnahs; *and Farruckabad, which was once the seat of great opulence and trade, is now daily deserted by its inhabitants; its walls mouldering away, without po-*

lice, without protection; exposed to the depredations of a banditti of two or three hundred robbers, who, night after night, enter it for plunder, murdering all who oppose them. The ruin that has overtaken this country is not to be wondered at, when it is considered that there has been no stable government for many years. There has been the nabob vizier's authority, his ministers, the residents at Lucknow, the sezawalls, the camp authority, the nabob Musuffer Jung's, and that of twenty dewans or advisers. No authority sufficiently predominant to establish any regulations for the benefit of the country, whilst each authority had been exerted, as opportunity offered, for temporary purposes."

"Such being the present *deplorable* state of Farruckabad and its districts, in the ensuing year it will be in vain to look for revenue, if some regulations equal to the exigency be not adopted. The whole country will be divided between the neighbouring powerful aumils, the refractory zemindars, and banditti of robbers; and the patans, who might be made useful subjects will fly from the scene of anarchy. The crisis appears now come, that either some plan of government should be resolved on, so as to form faithful subjects on the frontier, or the country be given up to its fate; and if it be abandoned, there can be little doubt but that the Mahrattas will gladly seize on a station so favourable to incursions into the vizier's dominions, will attach to their interest the Hindoo zemindars, and possess themselves of forts, which with little expense made formidable, would give employment perhaps to the whole of our force, should it be ever necessary to recover them."

That the council at Calcutta, on the representation aforesaid, made by the resident at Farruckabad, did propose and record a plan for the better government of the said country, but did delay the execution of the same, until the arrangements made by the said Hastings with the noble vizier should be known; but the said Hastings, as far as in him lay, did entirely set aside any plan that could be formed for that purpose upon the basis of a British resident at Farruckabad, by engaging with the said nabob vizier, that no British influence shall be employed within his dominions, and he has engaged to that prince not to abandon him to any other mode of relation, and he has informed the court of directors, that the territories of the nabob of Oude will be ruined, if residents are sent into them, observing, that "residents never will be sent for any other purpose than those of vengeance and corruption."

That the said Warren Hastings did declare to the court of directors, that in his opinion the mode of relief most effectual, and most lenient with regard to Farruckabad, would be to nominate one of the family of the prince to superintend his affairs, and to secure the payments; but this plan, which appears to be most connected with the rights of the ruling family, whilst it provides against the imbecility of the natural lord, and is free from his objection to a resident, is the only one which the said Hastings never has executed, or even proposed to execute.

That the said Hastings, by the agreements aforesaid, has left the company in such an alternative, that they can neither relieve the said prince of Farruckabad from oppression without a breach of the engagements entered into by him, the said Hastings, with the nabob vizier, in the name of the company, nor suffer him to remain under the said oppression without violating all faith, and all the rules of justice with regard to him. And the said Hastings hath directly made or authorized no less than six revolutions in less than five years in the aforesaid harassed province; by which frequent and rapid changes of government, all of them made in contradiction to all his own declared motives and reasons for the several acts successively done and undone in this transaction, the distresses of the country, and the disorders in its administration, have been highly aggravated; and in the said irregular proceedings, and in the gross and complicated violations of faith with all parties, the said Hastings is guilty of high crimes and misdemeanours.

VI. DESTRUCTION OF THE RAJAH OF SAHLONE.

I.—That the late nabob of Oude, Shuja ul Dowla, did (on what reasons of policy, or pretences of justice, is unknown) dispossess a certain native person of distinction, or eminent rajah, residing in the country of Sahlone, "the lineal descendent of the most powerful Hindoo family in that part of Hindostan," of his patrimonial estate; and conferred the same, or part of the same, on his (the nabob's mother, as a jaghire [or estate] for the term of her life; and the mother of the nabob, in order to quiet the country, and to satisfy, in

some measure, the principal and other inhabitants, did allow and pay a certain pension to the said rajah; which pension, on the general confiscation of jaghires (made at the instigation of the said Warren Hastings,) and by the letting of lands so confiscated to farmers at rack-rents, was discontinued, and refused to be paid; and the discontinuance of the said pension, "on account of the personal respect borne to the rajah (as connections with him are sought for, and thought to confer honour)" did cause an universal discontent, and violent commotions, in the district of Sahlone, and other parts of the province of Oude, with great consequent effusion of blood, and interruption, if not total discontinuance, to the collection of the revenues in those parts, other than as the same was irregularly, and with great damage to the country, enforced by British troops.

II.—That Mr. Lumsdaine, the officer employed to reduce those disordered parts of the province to submission, after several advantages gained over the rajah and his adherents, and expelling him from the country, did represent the utter impossibility of bringing it to a permanent settlement "merely by forcible methods; as in any of his (the rajah's) incursions, it would not be necessary to bring even a force with him, as the zemindars [landed proprietors and freeholders] are much attached to the rajah, whom they consider as their hereditary prince, and never fail to assist him; and that his rebellion against government is not looked on as a crime:" and Mr. Lumsdaine declared it "as his clear opinion, that the allowing the said rajah a pension, suitable to his rank and influence in the country, would be the most certain mode of obtaining a permanent peace;" alleging, among other cogent reasons, "that the expense of the force necessary to be employed to subdue the country, might be spared and employed elsewhere; and that the people would return to their villages with their cattle and effects, and of course government have some security for the revenue, whereas at present they have none;" and the representation containing that prudent and temperate council, given by a military man of undoubted information, and perfect experience in the local circumstances of the country, was transmitted by the resident Bristow to the said Warren Hastings, who did wilfully and criminally omit to order any relief to the said rajah in conformity to the general sense and wishes of the inhabitants; a compliance with whose so reasonable an expectation his duty in restoring the tranquillity of the country, and in relieving the honour of the English government, did absolutely require. But, instead of making such provision, a price was set upon his head; and several bodies of British troops being employed to pursue him, after many skirmishes and much bloodshed, and mutual waste of the country, the said rajah, honoured and respected by the natives, was hunted down, and at length killed in a thicket.

VII. CONTRACTS.

THAT the court of directors of the East-India company had laid down the following fundamental rules for the conduct of such of the company's business in Bengal, as could be performed by contract; and had repeatedly and strictly ordered the governour and council of Fort William to observe those rules; viz. that all contracts should be publicly advertised, and the most reasonable proposal accepted; that the contracts of provisions, and for furnishing draught and carriage bullocks for the army should be *annual*; and that they should not fail to advertise for and receive proposals for those contracts *every year*.

That the said Warren Hastings, in direct disobedience to the said positive orders, and, as the directors themselves say, *by a most deliberate breach of his duty*, did, in September, 1777, accept of proposals offered by Ernest Alexander Johnson for providing draught and carriage bullocks, and for victualling the Europeans, without advertising for proposals, as he was expressly commanded to do, and extended the contract for *three years*, which was positively ordered to be *annual*; and, notwithstanding that extension of the period, which ought at least to have been compensated by some advantage to the company in the conditions, did conclude the said contract *upon terms less advantageous than the preceding contract, and therefore not on the lowest terms procurable*:—that the said Warren Hastings, in defiance of the judgment and lawful orders of his superiours, which in this case left him no option, declared, that *he disapproved of publishing for proposals, and that the contract was reduced too low already*: thereby avowing himself the advocate of the contractor, against whom, as representative of the company, and guardian of their interest, he properly was party, and preferring the advantage of the contractor to those of his own constituents and

employers:—that the court of directors of the East-India company, having carefully considered the circumstances and tendency of this transaction, condemned it in the strongest terms, declaring, that they would not *permit* the contract to be continued, and that, "if the contractor should think himself aggrieved, and take measures in consequence, by which the company became involved in loss or damage, they should certainly hold the majority of the council responsible for such loss or damage, and proceed against them accordingly."—That the said Warren Hastings, in defiance of orders, which, the directors say, were *plain and unequivocal*, did, in January, 1777, receive from George Templer, a proposal, essentially different from the advertisement published by the governour-general and council for receiving proposals for feeding the company's elephants, and did accept thereof, not only without having recourse to the proper means for ascertaining whether the said proposal was the lowest that could be offered, but with another actually before the board, nearly 30 per cent. lower than that made by the said George Templer, to whom the said Warren Hastings granted a contract, in the terms proposed by the said Templer, for three years, and did afterwards extend the same to five years, with new and distinct conditions accepted by the said Warren Hastings, without advertising for fresh proposals, by which the company were very considerable losers:—on all which the court of directors declared, "that this waste of their property could not be permitted; that he, the said Warren Hastings, had disregarded their authority, and disobeyed their orders, in not taking the lowest offers;" and they ordered, that the contract for elephants should be annulled; and the said directors further declared, that "if the contractor should recover damages of the company for breach of engagement, they were determined, in such case, to institute a suit at law against those members of the board who had presumed, in direct breach of their orders, to prefer the interest of an individual to that of the company."—That the said Warren Hastings did, in the year 1777, conclude with ——— Forde a contract for an armed vessel for the pilotage of the Chittigong river, and for the defence of the coast and river against the incursions of robbers for the term of five years, in further disobedience of the company's orders respecting the mode and duration of contracts, and with a considerable increase of expense to the company:—that the farming out the defence of a country to a contractor, being wholly unprecedented, and evidently absurd, could have no real object but to enrich the contractor at the company's expense; since either the service was not dangerous, and then the establishment was totally unnecessary, or, if it was a dangerous service, it was evidently the interest of the contractor to avoid such danger, and not to hazard the loss of his ship or men, which must be replaced at his own expense; and therefore that an active and faithful discharge of the contractor's duty was incompatible with his interest.

That the said Warren Hastings, in further defiance of the company's orders, and in breach of the established rule of their service, did, in the year 1777, conclude a contract with the master and deputy-master attendant of the company's marine or pilot service for supplying the said marine with naval stores, and executing the said service for the term of two years, and without advertising for proposals; that the use and expenditure of such stores, and the direction of the pilot vessels, are under the management, and at the disposition of the master-attendant by virtue of his office: that he is officially the proper and regular check upon the person who furnishes the stores, and bound by his duty to take care that all contracts for furnishing such stores are duly and faithfully executed: that the said Warren Hastings, by uniting the supply and the check in the same hands, did not only disobey the company's specific orders, and violate the fundamental rules and practice of the service, but did overset the only just and rational principle, on which this, and every other service of a similar nature, ought to be conducted; and did not only subject the company's interest, in point of expense, to fraud and collusion, but did thereby expose the navigation of the Bengal river to manifest hazard and distress; considering, that it is the duty of the master-attendant to take care that the pilot vessels are constantly stationed in the roads to wait the arrival of the company's ships, especially in tempestuous weather, and that they should be in a constant condition to keep the sea; whereas it is manifestly the interest of the contractor, in the first instance, to equip the said vessels as scantily as possible, and afterwards to expose them as little as possible to any service, in which the stores to be replaced by him might be lost or consumed; and finally, that in June, 1779, the said contract was prolonged to the said master-attendant, by the said Warren Hastings, for the further period of two years from the expiration of the first, without advertising for proposals. That

it does not appear that any of the preceding contracts have been annulled, or the charges attending any of them abated, or that the court of directors have ever taken any measures to compel the said Warren Hastings to indemnify the company, or to make good any part of the preceding loss incurred by the contracts.

That in the year 1777, the said Warren Hastings did recommend and appoint John Belli, at that time his private secretary, to be agent for supplying the garrison of Fort William with victualling stores: that the stores were to be purchased with money advanced by the company; and that the said agent was to be allowed a commission, or per centage, for his risk and trouble: that, in order to ascertain what sum would be a reasonable compensation for the agent, the governour-general and council agreed to consult some of the principal merchants of Calcutta: that the merchants, so consulted, reported their opinion, that 20 per cent. on the prime cost of the stores would be a reasonable compensation to the agent: that, nevertheless, the said Warren Hastings, supported by the vote and concurrence of Richard Barwell, then a member of the supreme council, did propose and carry it, that 30 per cent. per annum, should be allowed upon all stores to be provided by the agent: that the said Warren Hastings professed, that "he preferred an agency to a contract for this service; because, if it were performed by contract, it must then be advertised, and the world would know what provision was made for the defence of the fort;" as if its being publicly known, that the fort was well provided for defence, were likely to encourage an enemy to attack it. That in August, 1779, in defiance of the principle laid down by himself for preferring an agency to a contract, the said Warren Hastings did propose, and carry it, that the agency should be *converted into a contract*, to be granted to the said John Belli, without advertising for proposals, and fixed for the term of five years, "pretending that he had received frequent remonstrances from the said agent concerning the heavy losses and inconveniences, to which he was *subjected* by the indefinite terms of his agency;" notwithstanding it appeared, by evidence produced at the board, that, on a supply of about 37.000*l.* he had already drawn a commission of 22.000*l.* and upwards. That the said Warren Hastings pledged himself, that, *if required by the court of directors, the profits arising from the agency should be paid into the company's treasury, and appropriated as the court should direct.* That the court of directors, as soon as they were advised of the first appointment of the said agency, declared that they considered the commission of 20 per cent. as an ample compensation to the agent; and did positively order, that, according to the engagement of the said Warren Hastings, "the commission, paid or to be paid to the said agent, should be reduced to 20 per cent." That the said John Belli did positively refuse to refund any part of the profits he had received, or to submit to a diminution of those which he was still to receive; and that the said Warren Hastings has never made good his own voluntary and solemn engagement to the court of directors herein above mentioned: and as his failure to perform the said engagement is a breach of faith to the company, so his performance of such engagement, if he had performed it, and even his offering to pledge himself for the agent, in the first instance, ought to be taken as presumptive evidence of a connection between the said Warren Hastings and the said agent, his private secretary; which ought not to exist between a governour acting in behalf of the company, and a contractor making terms with such governour for the execution of a public service.

That, before the expiration of the contract herein before mentioned for supplying the army with draught and carriage bullocks, granted by the said Warren Hastings to Ernest Alexander Johnson for three years, the said Warren Hastings did propose and carry it in council, that a new contract should be made on a new plan, and that an offer thereof should be made to Richard Johnson, brother and executor of the said contractor, without advertising for proposals, for the term of *five years:* that this offer was *voluntarily accepted* by the said Richard Johnson, who at the same time, desired, and obtained, that the new contracts should be made out in the name of Charles Croftes, the company's accountant and sub-treasurer at Fort William: that the said Charles Croftes offered the said Richard Johnson as one of his securities for the performance of the said contract, who was accepted as such by the said Warren Hastings; and that, at the request of the said contractor, the contract for victualling the Europeans serving at the presidency was added to and united with that for furnishing bullocks, and fixed for the same period; that this extension of the period of the said contracts was not compensated by a diminution in the charge to be incurred by the company on that account, as it ought to have been; but, on the contrary,

the charge was immoderately increased by the new contracts; insomuch that is was proved, by statements and computations produced at the board, that the increase on the victualling contract would, in five years amount to 40,000*l.*; and that the increase on the bullock contract, in the same period, would amount to above four hundred thousand pounds: that when this, and many other weighty objections against the terms of the said contracts were urged in council to the said Warren Hastings, he declared, that *he should deliver a reply thereto;* but it does not appear, that he did ever deliver such a reply, or ever enter into a justification of any part of his conduct in this transaction. That the act of Parliament of 1773, by which the first governour-general and council were appointed, did expressly limit the duration of their office to the term of five years, which expired in October, 1779, and that the several contracts, herein before mentioned, were granted in September, 1779, and were made to continue *five* years after the expiration of the government, by which they were granted; that by this anticipation the discretion and judgment of the succeeding government, respecting the subject-matter of such contracts, was taken away, and any correction or improvement therein rendered impracticable. That the said Warren Hastings might have been justified by the rules and practice, or by the necessity of the public service, in binding the government by engagements to endure one year after the expiration of his own office; but on no principles could he be justified in extending such engagements beyond the term of one year, much less on the principles he has avowed, namely, "that it was only an act of common justice in him to secure *every man connected with him*, as far as he legally could, from the apprehension of future oppression." That the oppression, to which such apprehension, if real, must allude, could only consist in, and arise out of the obedience, which he feared a future government might pay to the orders of the court of directors, by making all contracts annual, and advertising for proposals publicly and indifferently from all persons whatever, by which it might happen that such beneficial contracts would not be constantly held by men *connected with him*, the said Warren Hastings: that this declaration made by the said Warren Hastings, combined with all the circumstances of these transactions, leaves no room to doubt that, in disobeying the company's orders, and betraying the trust reposed in him as guardian of the company's property, his object was to purchase the attachment of a number of individuals, and to form a party capable of supporting and protecting him in return.

That with the same view, and on the same principles, it appears, that excessive salaries and emoluments, at the East-India company's charge and expense, have been lavished by the said Warren Hastings to sundry individuals, contrary to the general principles of his duty, and in direct contradiction to the positive orders of the court of directors; particularly, that whereas by a resolution of the court of proprietors of the East India company, and by an instruction of the court of directors, it was provided, and expressly ordered, that there should be paid to the late Sir John Clavering "the sum of six thousand pounds sterling per annum in full for his services as commander-in-chief, in lieu of travelling charges, and of all other advantages and emoluments whatever:" and whereas the court of directors positively ordered, that the late "Sir Eyre Coote should receive the *same* pay as commander-in-chief of their forces in India, as was received by Lieutenant General Sir John Clavering;"—the said Warren Hastings, nevertheless, within a short time after Sir Eyre Coote's arrival in Bengal, did propose and carry it in council, that a new establishment should be created for Sir Eyre Coote, by which an increase of expense would be incurred by the India company to the amount of eighteen thousand pounds a year and upwards, exclusive of and in addition to his salary of six thousand pounds a year, provided for him by act of parliament as a member of the supreme council, and exclusive of and in addition to his salary of six thousand pounds a year as commander-in-chief, appointed for him by the company, and expressly fixed to that amount.

That the disobedience and breach of trust, of which the said Warren Hastings was guilty in this transaction, is highly aggravated by the following circumstances connected with it: that from the death of Sir John Clavering to the arrival of Sir Eyre Coote in Bengal, the provisional command of the army had devolved to, and been vested in, Brigadier General Giles Stibbert, the eldest officer on that establishment: that in this capacity, and as the said Warren Hastings has declared, "standing no way distinguished from the other officers in the army, but by his accidental succession to the first place on the list," he, the said Giles Stibbert, had, by the recommendation and procurement of the said Warren

Hastings, received and enjoyed a salary, and other allowances, to the amount of thirteen thousand eight hundred and fifty-four pounds twelve shillings per annum.—That Sir Eyre Coote, soon after his arrival, represented to the board, that a considerable part of those allowances, amounting to 8,220*l.* 10*s.* per annum, ought to devolve to himself, as commander-in-chief of the company's forces in India; and stating, that the said Giles Stibbert could no longer be considered as commander-in-chief under the presidency of Fort William, made a formal demand of the same. That the said Warren Hastings, instead of reducing the allowances of the said Giles Stibbert to the establishment at which they stood during General Clavering's command, and for the continuance of which, after Sir Eyre Coote's arrival, there could be no pretence, continued the allowances of thirteen thousand eight hundred and fifty-four pounds twelve shillings per annum to the said Giles Stibbert; and, at the same time, in order to appease and satisfy the demands of the said Sir Eyre Coote, did create for him that new establishment, herein before specified, of eighteen thousand pounds per annum; insomuch, that instead of the allowance of *six thousand pounds a year, in lieu of travelling charges and of all emoluments and allowances whatsoever,* to which the pay and allowances of commander-in-chief were expressly limited by the united act of the legislative and executive powers of the company, the annual charge to be borne by the company on that account was increased by the said Warren Hastings to the enormous sum of thirty-eight thousand two hundred and seventeen pounds ten shillings sterling.

"That on the 1st of November, 1779, the said Warren Hastings did move and carry it in council, that the resident at the vizier's court should be furnished with an account of all the extra allowances and charges of the commander-in-chief when in the field, with orders to add the same to the debit of the vizier's account, as a part of his general subsidy; the charge to commence from the day on which the general shall pass the Carumnassa, and to continue till his return to the same line." That this additional expense, imposed by the said Warren Hastings on the vizier, was unjust in itself, and a breach of treaty with that prince, the specific amount of the subsidy to be paid by him having been fixed by a treaty, to which no addition could justly be made, but at the previous requisition of the vizier. That the court of directors, in their letter of the 18th of October, 1780, did condemn and prohibit the continuation of the allowances above-mentioned to Sir Eyre Coote in the following words: "these allowances appear to us in a light so very extraordinary, and so repugnant to the spirit of a resolution of the general court of proprietors respecting the allowance made to General Clavering, that we positively direct, that they be discontinued immediately, and no part thereof paid after the receipt of this letter." That on the 27th of April, 1781, the governour-general and council, in obedience to the orders of the directors, did signify the same to the commissary general, as an instruction to him, that the extraordinary allowances to Sir Eyre Coote *should be discontinued, and no part thereof paid after that day;* that it appears, nevertheless, that the said extra allowances (amounting to above twenty thousand pounds sterling a year) were continued to be charged to the vizier, and paid to Sir Eyre Coote, in defiance of the orders of the court of directors; in defiance of the consequent resolution of the governour-general and council; and in contradiction to the terms of the original motion, made by the said Warren Hastings, for adding those allowances to the debit of the vizier, viz. "that they should continue till Sir Eyre Coote's return to the Carumnassa." That Sir Eyre Coote arrived at Calcutta about the end of August, 1780, and must have crossed the Carumnassa, in his return from Oude, some weeks before, when the charge on the vizier, if at any time proper, ought to have ceased. That it appears that the said allowances were continued to be charged against the vizier, and paid to Sir Eyre Coote, for three years after, even while he was serving in the Carnatick, and that this was done by the sole authority and private command of the said Warren Hastings.

That the East India company having thought proper to create the office of advocate-general in Bengal, and to appoint Sir John Day to that office, it was resolved by a general court of proprietors, that a salary of 3,000*l.* a year should be allowed to the said Sir John Day, *in full consideration of all demands and allowances whatsoever for his services to the company at the presidency of Fort William:* that the said Warren Hastings, nevertheless, shortly after Sir John Day's arrival in Bengal, did increase the said Sir John Day's salary and allowances to six thousand pounds a year, in direct disobedience to the resolution of the court of proprietors, and of the order of the court of directors: that the directors, as soon

as they were informed of this proceeding, declared, "that they held *themselves* bound by the resolution of the general court, and that they could not allow it to be disregarded by the company's servants in India;" and ordered that the increased allowances should be forthwith discontinued.

That the said Warren Hastings, after having first thought it necessary, in obedience to the orders of the court of directors, to stop the extraordinary allowance, which he had granted to Sir John Day, did afterwards resolve, that the allowance, which had been struck off, should be *repaid* to him, upon his signing an obligation to refund the amount which he might receive, in case the directors should confirm their former orders, already twice given: that in this transaction, the said Warren Hastings trifled with the authority of the company, eluded the repeated orders of the directors, and exposed the company to the risk and uncertainty of recovering, at a distant period, and perhaps by a process of law, a sum of money, which they had positively ordered him not to pay.

That, in the latter part of 1776, by the death of Colonel Monson, the whole power of the government of Fort William devolved to the governour and one member of the council; and that from that time the governour-general and council have generally consisted of an even number of persons, in consequence of which the casting voice of the said Warren Hastings has usually prevailed in the decision of all questions. That about the end of the year 1776, the whole civil establishment of the said government did not exceed 205,399*l.* per annum; that in the year 1783, the said civil establishment had been increased to the enormous annual sum of 927,945*l.* That such increase in the civil establishment could not have taken place, if the said Warren Hastings, who was at the head of the government, with the power annexed to the casting voice, had not actively promoted the said increase, which he had power to prevent, and which it was his duty to have prevented: that by such immoderate waste of the property of his employers, and by such scandalous breach of his fidelity to them, it was the intention of the said Warren Hastings to gain and secure the attachment and support of a multitude of individuals, by whose united interest, influence, and intrigues, he hoped to be protected against any future inquiry into his conduct: that it was of itself highly criminal in the said Warren Hastings to have so wasted the property of the East-India company, and that the purpose to be obtained by such waste was a great aggravation of that crime. That among the various instances of profusion, by which the civil establishment of Fort William was increased to the enormous annual sum herein before mentioned, it appears that a salt office was created of six commissioners, whose annual emoluments were as follows: viz.

President, or comptroller, per annum	18,480*l.*
1st member	13,100*l.*
2d do.	11,480*l.*
3d do.	13,183*l.*
4th do.	6,257*l.*
5th do.	10,307*l.*
	72,807*l.*

That a board of revenue was created by the said Warren Hastings, consisting of five commissioners, whose annual emoluments were as follows: viz.

1st member, per annum . .	10,950*l.*
2d do.	9,100*l.*
3d do.	9,100*l.*
4th do.	9,000*l.*
5th do.	9,000*l.*
	47,350*l.*

That David Anderson, Esquire, first member of the said board, did not execute the duties, though he received the emoluments, of the said office; having acted, for the greatest part of the time, as ambassadour to Madajee Scindia, with a further salary of 4,280*l.* a year; making in all, 15,230*l.* a year.

That the said Warren Hastings did create an office of agent victualler to the garrison of Fort William, whose profits, on an average of three years, were 15,970*l.* per annum: that this agency was held by the post-master-general, who, in that capacity, received 2,200*l.* a year from the company, and who was actually no higher than a writer in the service: the person who held these lucrative offices, viz. John Belli, was private secretary to the said Warren Hastings.

That the said Warren Hastings created a nominal office of resident at Goa, where the company never had a resident, nor business of any kind to transact, and gave the said nominal office to a person, who was not a covenanted servant of the company, with an allowance of 4,280*l.* a year.

That these instances are proofs of a criminal profusion and high breach of trust to the India company in the said Warren Hastings, under whose government, and by means of whose special power, derived from the effect of his casting voice, all the said waste and profusion did take place.

That at the end of the year 1780, when, as the court of directors affirm, *the company were in the utmost distress for money, and almost every department in arrear*, and when it appears that there was a great scarcity and urgent want of grain at Fort St. George, the said Warren Hastings did accept of a proposal made to him by James Peter Auriol, then secretary to the council, to supply the presidency of Fort St. George with rice and other articles, and did appoint the said Auriol to be the agent for supplying *all the other* presidencies with those articles: that the said Warren Hastings declared, that the intention of the appointment "was most likely to be fulfilled by a liberal consideration of it," and therefore allowed the said Auriol a commission of 15 per cent. on the whole of his disbursements; thereby rendering it the direct interest of the said Auriol to make his disbursements as great as possible; that the chance of capture by the enemy, or danger of the sea, was to be at the risk of the India company, and not of the said Auriol; that the said Warren Hastings declared personally to the said Auriol, "that this post was intended as a reward for his long and faithful services." That the president and council of Bombay did remonstrate against what they called *the enormous amount of charges* of the rice, with which they were supplied, which they state to be nine rupees a bag at Calcutta, when they themselves could have contracted for its delivery at Bombay, free of all risk and charges, at five rupees and three-sixteenths per bag; and that even at Madras, where the distress and demand was greatest, the supplies of grain by private traders, charged to the company, were nineteen per cent. cheaper than that supplied by the said Auriol, exclusive of the risk of the sea, and of capture by the enemy. That it is stated by the court of directors, that the agent's commission on a supply of *a single year* (the said commission being not only charged on the prime cost of the rice, but also on the freight, and on all other charges) would amount to pounds sterling twenty-six thousand eight hundred and seventy-three, and by the said Arnold himself is admitted to amount to 18,292*l.*: that William Larkins, the accomptant-general at Fort William, having been ordered to examine the accounts of the said agent, did report to the governour-general and council, that he found them to be *correct in the additions and calculations*; and that then the said Larkins adds the following declaration: "the agent *being upon honour* with respect to the sums charged in his accounts for the cost of the articles supplied, I did not think myself authorized to require *any voucher* of the sums charged for the demurrage of sloops, either as to the time of detention, or the rate of the charge, or of those for the articles lost in going down the river; and on that ground I thought myself equally bound to admit the sums acknowledged as received for the sales of goods returned, without requiring vouchers of the rates at which they were sold." That, in this transaction, the said Warren Hastings has been guilty of a high breach of trust and duty in the unnecessary expenditure of the company's money, and in subjecting the company to a profusion of expense, at all times wholly unjustifiable, but particularly at the time when that expense was incurred. That the said Warren Hastings was guilty of breach of orders, as well as breach of trust, in not advertising generally for proposals; in not *contracting* indifferently for the supplies with such merchants as might offer to furnish them on the lowest terms; in giving an enormous commission to an agent, and that commission not confined to the prime cost of the articles, but to be computed on the whole of his charges; in accepting of the *honour* of the said agent as a sufficient voucher for the cost of the articles supplied, and for all charges whatever, on which his commission was to be computed; and finally, in giving a lucrative agency for the supply of a distressed and starving province, as a reward to a secretary of state, whose labours in that capacity ought to have been rewarded by an avowed public salary, and not otherwise. That, after the first year of the said agency was expired, the said Warren Hastings did agree, that for the future the commission to be drawn by the said agent should be reduced to five per cent., which the governour-general and council then declared to be *the customary amount drawn by merchants*; but that, even in this reduction of the commission, the said Warren Hastings was guilty of a deception, and did not in fact reduce the commission from 15 to 5 per cent., having immediately after resolved, that he, the agent, should be allowed the current interest of Calcutta upon all his draughts on the treasury from the day of their dates, until they should be completely liquidated; that the le-

gal interest of money in Bengal is twelve per cent. per annum, and the current interest from eight to ten per cent.

VIII. PRESENTS.

THAT, before the appointment of the governour-general and council of Fort William by act of parliament, the allowances made by the East-India company to the presidents of that government were abundantly sufficient; and that the said presidents in general, and the said Warren Hastings particularly, was restrained by a specific covenant and indenture, which he entered into with the company, from accepting any gifts, rewards, or gratuities whatsoever, on any account or pretence whatsoever. That in the regulating act passed in the year 1773, which appointed the said Warren Hastings, Esquire, governour-general of Fort William in Bengal a salary of 25,000*l.* a year was established for him, to which the court of directors added, "that he should enjoy their principal houses, with the plate and furniture, both in town and country, *rent free.*" That the same law which created the office and provided the salary of the said Warren Hastings, did expressly, and in the clearest and most comprehensive terms that could be devised, prohibit him from receiving any present, gift, or donation, in any manner, or on any account whatsoever; and that the said Warren Hastings perfectly understood the meaning, and acknowledged the binding force of this prohibition, before he accepted of the office, to which it was annexed. He knew, and had declared, that *the prohibition was positive and decisive; that it admitted neither of refinement or misconstruction; and that, in his opinion, an opposition would be to incur the penalty.*

That, notwithstanding the covenants and engagements above mentioned, it appears in the recorded proceedings of the governour-general and council of Fort William, that sundry charges have been brought against the said Warren Hastings for gifts or presents corruptly taken by him before the promulgation of the act of 1773, in India, and that these charges were produced at the council board in presence of the said Warren Hastings: that, in March, 1775, the late Rajah Nundcomar, a native Hindoo, of the highest cast in his religion, and of the highest rank in society by the offices which he had held under the country government, did lay before the council an account of various sums of money paid by him to the said Warren Hastings, amounting to 40,000*l.* and upwards, for offices and employments corruptly disposed of by the said Warren Hastings, and did offer and engage to prove and establish the same by sufficient evidence. That this account is stated with a minute particularity and precision; the date of each payment, down to that of small sums, is specified; the various coins in which such payments were severally made, are distinguished; and the different persons through whose hands the money passed into those of the said Warren Hastings, are named; that such particularity on the face of such a charge, supposing it false, is favourable to the party wrongfully accused, and exposes the accuser to an instant and easy detection; for though, as the said Warren Hastings himself has observed on another occasion, "papers may be forged, and evidences may appear in numbers to attest them, yet it must always be an easy matter to detect the falsity of any forged paper produced by examining the witnesses separately, and subjecting them to a subsequent cross-examination, in which case, if false, they will not be able to persevere in one regular consistent story."

Whereas, if no advantage be taken of such particularity in the charge to detect the falsehood thereof, and if no attempt to disprove it, and no defence whatever be made, a presumption justly and reasonably arises in favour of the truth of such charge. That the said Warren Hastings, instead of offering any thing in his defence, declared, that *he would not suffer Nundcomar to appear before the board as his accuser.* That he attempted to indict his said accuser for a conspiracy, in which he failed; and that the said Rajah Nundcomar was soon after, and while his charge against the said Warren Hastings was depending before the council, indicted upon an English penal statute, which does not extend even to Scotland, before the supreme court of judicature, for an offence said to have been committed several years before, and not capital by the laws of India, and was condemned and executed. That the evidence of this man, not having been encountered at the time when it might and ought to have been, by the said Warren Hastings, remains justly in force against him, and is not abated by the capital punishment of the said Nundcomar, but rather confirmed by the time and circumstances in which the accuser of the said Warren Hastings suffered death. That one of the offices, for which a part of the

money above mentioned is stated to have been paid to the said Warren Hastings, was given by him to Munny Begum, the widow of the late Myr Jaffier, nabob of Bengal, whose son, by another woman, holds that title at present. That the said Warren Hastings had been instructed by the court directors of the East India company to appoint a minister to transact the political affairs of the government, and to select for that purpose some person well qualified for the affairs of government, to be minister and guardian of the nabob's minority." That, for these offices, and for the execution of the several duties belonging to them, the said Warren Hastings selected and appointed the said Munny Begum, a woman evidently unqualified for, and incapable of, such offices, and restrained from acting in such capacities by her necessary seclusion from the world, and retirement in a seraglio. That a considerable deficiency or embezzlement appearing in this woman's account of the young nabob's stipend, she voluntarily declared, by a writing under her seal, that she had given 15,000*l.* to the said Warren Hastings for an entertainment; which declaration corresponds with and confirms that part of the charge produced by Rajah Nundcomar, to which it relates. That neither this, nor any other part of the said charge, has been at any time directly denied or disputed by the said Warren Hastings, though made to his face, and though he was repeatedly accused by his colleagues, who were appointed by parliament at the same time with himself, of peculation of every sort. That instead of promoting a strict inquiry into his conduct for the clearance of his innocence and honour, he did repeatedly endeavour to elude and stifle all inquiry, by attempting to dissolve the meetings of the council, at which such charges were produced, and by other means; and has not since taken any steps to disprove or refute the same. That the said Warren Hastings, so long ago as September, 1775, assured the court of directors, "that it was his fixed determination most fully and liberally to explain every circumstance of his conduct on the points on which he had been injuriously arraigned, and to afford them the clearest conviction of his own integrity, and of the propriety of his motives for declining a present defence of it;" and having never since given to the court of directors any explanation whatever, much less the full and liberal explanation he had promised so repeatedly, has thereby abandoned even that late and protracted defence, which he himself must have thought necessary to be made at some time or other; and which he would be thought to have deferred to a period more suitable and convenient than that in which the facts were recent, and other charges of the same nature against him was fresh and unimpaired in the minds of men.

That on the 30th of March, 1775, a member of the council produced and laid before the board a petition from Mir Zein Abul Dheen, (formerly farmer of a district, and who had been in creditable stations) setting forth that Khân Jehan Khân, then phousdar of Houghly, had obtained that office from the said Warren Hastings, with a salary of seventy-two thousand sicca rupees a year; and that the said phousdar had given *a receipt of bribe to the patron of the city*, meaning Warren Hastings, to pay him annually thirty-six thousand rupees a year, and also to his banyan, Cantoo Baboo, four thousand rupees a year, out of the salary above mentioned. That by the 35th article of the instructions given to the governour-general and council, they are directed "immediately to cause the strictest inquiry to be made into all oppressions which might have been committed either against the natives or Europeans, and into all abuses that might have prevailed in the collection of the revenues, or any part of the civil government of the presidency, and to communicate to the directors all information which they might be able to obtain relative thereto, or to any dissipation or embezzlement of the company's money." That the above petition and instruction having been read in council, it was moved that the petitioner should be ordered to attend the next day to make good his charge. That the said Warren Hastings declared, "that it appeared to him to be the purpose of the majority to make him the sole object of their personal attacks. That they had taken their line and might pursue it. That he should have other remarks to make upon this transaction, but as they would be equally applicable *to many others*, which in the course of this business were likely to be brought before the board, he should say no more on the subject;" and he objected to the motion. That by the preceding declaration the said Warren Hastings did admit, that many other charges were likely to be brought against him, and that such charges would be of a similar nature to the first, viz. a corrupt bargaining for the disposal of a great office, since he declared that his remarks on that transaction would be equally applicable to the rest; and that, by objecting to the motion for the personal attend-

sence of the accuser, he resisted and disobeyed the company's instructions; and did, as far as depended on his power, endeavour to obstruct and prevent all inquiry into the charge. That in so doing he failed in his duty to the company; he disobeyed their express orders, and did leave the charge against himself without a reply, and even without a denial; and with that unavoidable presumption against his innocence, which lies against every person accused, who not only refuses to plead, but, as far as his vote goes, endeavours to prevent an examination of the charge, and to stifle all inquiry into the truth of it. That the motion having been nevertheless carried, the said Warren Hastings did, on the day following, declare, "that he could not sit to be confronted with such accusers, nor suffer a judicial inquiry into his conduct at the board of which he was president; and declared the meeting of the board dissolved." That the board continued to sit and examine witnesses, servants of the phousdar, on oath and written evidence, being letters under the hand and seal of the phousdar, all directly tending to prove the charge; viz. that out of the salary of seventy-two thousand rupees a year paid by the company, the said phousdar received but thirty-two thousand, and that the remainder was received by the said Warren Hastings and his banyan. That the phousdar, though repeatedly ordered to attend the board, did, under various pretences, decline attending, until the 19th of May, when the letters stated to be his, that is, under his hand and seal, being shown to him, it was proposed by a member of the board, that he should be asked, whether he had any objection to swear to the truth of such answers as he might make to the questions proposed by the board. That the said Warren Hastings objected to his being put on oath. That the question was nevertheless put to him in consequence of a resolution of the board. That he first declined to swear, under pretence *that it was a matter of serious consequence to his character to take an oath*; and, when it was finally left to his option, he declared, "mean people might swear, but that his character would not allow him; that he could not swear, and had rather subject himself to a loss." That the evidence in support of the charge being on oath was in this manner left uncontradicted; that it was admitted by the said Warren Hastings, that neither Mussulmen or Hindoos are forbidden by the precepts of their religion to swear. That it is not true, as the said Warren Hastings asserted, that it was repugnant to the manners either of Hindoos or Mussulmen; and that if, under such pretences the natives were to be exempted from taking an oath, when examined by the governour and council, all the inquiries pointed out to them by the company's instructions might stop, or be defeated. That no valid reason was, or could be assigned, why the said phousdar should not be examined on oath; that the charge was not against himself: and that, if any questions had been put to him tending to make him accuse himself, he might have declined to answer them. That, if he could have safely sworn to the innocence of the said Warren Hastings, from whom he received his employment, he was bound in gratitude, as well as justice, to the said Warren Hastings, to have consented to be examined on oath. That not having done so, and having been supported and abetted in his refusal by the said Warren Hastings himself, whose character and honour were immediately at stake, the whole of the evidence for the truth of the charge remains unanswered, and in full force against the said Warren Hastings, who on this occasion recurred to the declaration he had before made to the directors, viz. "that he would most fully and liberally explain every circumstance of his conduct," but has never since that time given the directors any explanation whatsoever of his said conduct. And finally, that when the court of directors, in January, 1776, referred the question (concerning the legality of the power assumed, and repeatedly exercised by the said Warren Hastings, of dissolving the council at his pleasure) to the late Charles Sayer, then standing council of the East India company, the said Charles Sayer, declared his opinion in favour of the power; but concerning the use and exercise of it in cases stated, did declare his opinion in the following words: "I believe he, Warren Hastings, is the first governour that ever dissolved a council inquiring into his behaviour, when he was innocent." Before he could summon three councils and dissolve them, he had time fully to consider what would be the result of such conduct, *to convince every body beyond a doubt of his conscious guilt.*

That by a resolution of a majority of the council, constituting a lawful act of the governour-general and council, the said Khân Jehan Khân was dismissed from the office of phousdar of Houghly for a contempt of the authority of the board. That, within a few weeks after the death of the late Colonel Monson, the number of the council being then even,

and all questions being then determined by the governour-general's casting voice, the said Warren Hastings did move, and carry it in council, that the said Khân Jehan Khân should be restored to his office; and that restoration not having been preceded, accompanied, or followed, by any explanation or defence whatsoever, or even by a denial of the specific and circumstantial charge of collusion with the said Khân Jehan Khân, has confirmed the truth of the said charge.

That, besides the sums charged to have been paid to the said Warren Hastings by the said Nundcomar, and Munny Begum, and Khân Jehan Khân, and besides the sum of 110,000*l.*, already mentioned to have been accepted without hesitation by him as a present on the part of the nabob of Oude and that of his ministers, the circumstances of which have been particularly reported to the house of commons, it appears by the confession of the said Warren Hastings, that he has, at different times since the promulgation of the act of 1773, received various other sums, contrary to the express prohibition of the said act, and his own declared sense of the evident intent and obligation thereof. That in the month of June, 1780, the said Warren Hastings made to the council, what he called "a very unusual tender, by offering to exonerate the company from the expense of a particular measure, and to *take it upon himself*; declaring that he had already deposited two lacks of rupees (or twenty-three thousand pounds) in the hands of the company's sub-treasurer for that service." That in a subsequent letter, dated the 29th of November, 1780, he informed the court of directors, that "this money, by whatever means it came into their possession, *was not his own*;" but he did not then, nor has he at any time since, made known to the court of directors from whom, or on what account, he received that money, as it was his duty to have done in the first instance; and, notwithstanding the said directors signified to him their expectation that he should communicate to them "immediate information of the channel by which this money came into his possession, with a complete illustration of the cause or causes of so extraordinary an event:" but, from evidence examined in England, it has been discovered that this money was received by the said Warren Hastings, from Cheyt Sing, the rajah of Benares, who was soon after dispossessed of all his property, and driven from his country and government by the said Warren Hastings.

That notwithstanding the declaration made by the said Warren Hastings, that he had actually deposited the sum above mentioned in the hands of the company's sub-treasurer for their service, it does not appear, that "any entry whatsoever of that, or any other payment by the governour-general, was made in the treasury accounts, at or about the time;" nor is there any trace, in the company's books, of its being actually paid into their treasury.

It appears, then, by the confession of the said Warren Hastings, that this money was received by him; but it does not appear that he has converted it to the property and use of the company.

That in a letter from the said Warren Hastings to the said court of directors, dated the 22d of May, 1782, but not despatched, as it might and ought to have been at that time, but detained and kept back by the said Warren Hastings till the 16th of December following, he has confessed the receipt of various other sums, amounting (with that which he accepted from the nabob of Oude) to nearly 200,000*l.*, which sums he affirmed had been converted to the company's property through his means, but without discovering from whom, or on what account, he received the same. That, instead of converting this money to the company's property, as he affirmed he had done, it appears that he had lent the greater part of it to the company upon bonds bearing interest, which bonds were demanded and received by him, and, for aught that yet appears, have never been given up or cancelled. That for another considerable part of the above mentioned sum he has taken credit to himself, as for a deposit of his own property, and therefore demandable by him out of the company's treasury at his discretion. That all sums so lent or deposited are not alienated from the person who lends or deposits the same; consequently, that the declaration made by the said Warren Hastings, that he had converted the whole of these sums to the company's property, was not true; nor would such a transfer, if it had really been made, have justified the said Warren Hastings in originally receiving the money; which, being in the first instance contrary to law, could not be rendered legal by any subsequent disposition or application thereof; much less would it have justified the said Warren Hastings in delaying to make a a discovery of these transactions to the court of directors, until he had heard of the inquiries then begun, and proceeding in parliament; in finally making a discovery, such as it is,

in terms the most intricate, obscure, and contradictory. That, instead of that full and clear explanation of his conduct, which the court of directors demanded, and which the said Warren Hastings was bound to give them, he has contented himself with telling the said directors, that "if this matter was to be exposed to the view of the public, his reasons for acting as he had done might furnish a variety of conjectures, to which it would be of little use to reply. That he either chose to conceal the first receipts from public curiosity by receiving bonds for the amount, or possibly acted without any studied design, which his memory could at that distance of time verify; and that he *could* have concealed them from their eye and that of the public for ever." That the discovery, as far as it goes, establishes the guilt of the said Warren Hastings in taking money against law, but does not warrant a conclusion that he has discovered *all* that he may have taken. That, on the contrary, such discovery not being made in proper time, and when made being imperfect, perplexed, and wholly unsatisfactory, leads to a just and reasonable presumption, that other facts of the same nature have been concealed, since those, which he has confessed, might have been for ever; and that this partial confession was either extorted from the said Warren Hastings by the dread of detection, or made with a view of removing suspicion, and preventing any further inquiry into his conduct.

That the said Warren Hastings, in a letter to the court of directors, dated 21st of February, 1784, has confessed his having *privately received* another sum of money, the amount of which he has not declared, but which, from the application he says he has made of it, could not be less than thirty-four thousand pounds sterling. That he has not informed the directors from whom he received this money, at what time, nor on what account; but, on the contrary, has attempted to justify the receipt of it, which was illegal, by the application of it, which was unauthorized and unwarrantable, and which, if admitted as a reason for receiving money *privately*, would constitute a precedent of the most dangerous nature to the company's service. That in attempting to justify the receipt and application of the said money, he has endeavoured to establish principles of conduct in a governour, which tend to subvert all order and regularity in the conduct of public business; to encourage and facilitate fraud and corruption in all offices of pecuniary trust, and to defeat all inquiry into the misconduct of any person, in whom pecuniary trust is reposed. That the said Warren Hastings, in his letter above mentioned, has made a declaration to the court of directors in the following terms: "Having had occasion to disburse from my own cash many sums, which, though required to enable me to execute the duties of my station, I have hitherto omitted to enter in my public accounts, and my own fortune being unequal to so heavy a charge, I have resolved to reimburse myself in a mode the most suitable to the situation of your affairs, by charging the same in my durbar accounts of the present year, and crediting them by a sum *privately received*, and appropriated to your service in the same manner with other sums received on account of the honourable company, and already carried to their account." That, at the time of writing this letter, the said Warren Hastings had been in possession of the government of Fort William about twelve years, with a clear salary, or avowed emoluments, at no time less than twenty-five thousand pounds sterling a year, exclusive of which all the principal expenses of his residence were paid for by the company. That if the services mentioned by him were required to enable him to execute the duties of his station, he ought not to have omitted to enter them in his public accounts at the times when the expenses were incurred. That if it was true, as he affirms, that when he first engaged in these expenses he had no intention to carry them to the account of the company, there was no subsequent change in his situation which could justify his departing from that intention. That if his own fortune in the year 1784 was unequal to so heavy a charge, the state of his fortune at any earlier period must have been still more unequal to so heavy a charge. That the fact so asserted by the said Warren Hastings leads directly to an inference palpably false and absurd, viz. that the longer a governour-general holds that lucrative office, the poorer he must become. That neither would the assertion, if it were true, nor the inference, if it were admitted, justify the conduct avowed by the said Warren Hastings, in resolving to reimburse himself out of the company's property without their consent or knowledge. That the account transmitted in this letter is styled by himself *an aggregate of a contingent account of twelve years*. That all contingent accounts should be submitted to those who ought to have an official control over them, at annual or other shorter periods, in order that the ex-

pense already incurred may be checked and examined and similar expenses, if disapproved of, may be prohibited in time; that, after a very long period is elapsed, all check and control over such expenses is impracticable; and, if it were practicable in the present instance, would be completely useless, since the said Warren Hastings, without waiting for the consent of the directors, did *resolve to reimburse himself*. That the conduct of the said Warren Hastings in withholding these accounts for twelve years together, and then resolving to reimburse himself without the consent of his employers, has been fraudulent in the first instance, and in the second amounts to a denial and mockery of the authority placed over him by law; and that he has thereby set a dangerous example to his successors, and to every man in trust or office under him. That the mode in which he has reimbursed himself, is a crime of a much higher order, and greatly aggravates whatever was already criminal in the other parts of this transaction. That the said Warren Hastings, in declaring that he should reimburse himself by crediting the company by *a sum privately received*, has acknowledged himself guilty of an illegal act in receiving money *privately*. That he has suppressed or withheld every particular, which could throw any light on a conduct so suspicious in a governour, as the *private* receipt of money. That the general confession of the private receipt of a large sum in gross, in which no circumstance of time, place, occasion, or person, nor even the amount, is specified, tends to cover or protect any act of the same nature (as far as a general confession can protect such acts) which may be detected hereafter, and which in fact may not make part of the gross sum so confessed, and that it tends to perplex and defeat all inquiry into such practices. That the said Warren Hastings, in stating to the directors that he has resolved to reimburse himself in *a mode most suitable to the situation of their affairs*, viz. by receiving money privately against law, has stated a presumption highly injurious to the integrity of the said directors; viz. that they will not object to, or even inquire into any extraordinary expenses, incurred and charged by their governours in India, provided such expenses are reimbursed by money privately and illegally received. That he has not explained what that situation of their affairs was, or could be, to which so dangerous and corrupt a principle was or might be applied. That no evidence has been produced to prove that it was true, nor any ground of argument stated to show that it might be credible, that any native of India had voluntarily and gratuitously given money privately to the said Warren Hastings, that is, without some prospect of a benefit in return, or some dread of his resentment if he refused. That is not a thing to be believed, that any native would give large sums privately to a governour, which he refused to give or lend publicly to government, unless it were to derive some adequate secret advantage from the favour, or to avoid some mischief from the enmity, of such governour. That the late confessions made by the said Warren Hastings of money received against law are no proof that he did not originally intend to appropriate the same to his own use such confessions having been made at a suspicious moment, when, and not before he was apprized of the inquiries commenced in the house of commons, and when a dread of the consequence of those inquiries might act upon his mind; that such confessions, from the the obscure, intricate, and contradictory manner in which they are made, imply guilt in the said Warren Hastings, as far as they go; that they do not furnish any colour of reason to conclude that he has confessed all the money which he may have corruptly received; but that, on the contrary, they warrant a just and reasonable presumption, that in discovering some part of the bribes he had received, he hoped to lull suspicion, and thereby conceal and secure the rest.

That the court of directors, when the former accounts of these transactions came before them, did show an evident disposition not to censure the said Warren Hastings, but to give the most favourable construction to his conduct; that nevertheless they found themselves obliged "to confess that the statement of those transactions appeared to them in many parts *so unintelligible*, that they felt themselves under the necessity of calling on the governour-general for an explanation, agreeably to his promise voluntarily made to them."

That their letter, containing this requisition, was received in Bengal in the month of August, 1784, and that the said Warren Hastings did not embark for England until the 2d of February, 1785, but made no reply to that letter before his departure, owing, as he has since said, *to a variety of other more important occupations*. That, under pretence of such occupations, he neglected to transmit to the court of directors a copy of a paper, which, he says, contained the *only* account he

ever kept of the transaction. That such a paper, or a copy of it, might have been transmitted without interrupting other important occupations, if any could be more important than that of giving a clear and satisfactory answer to the requisition of the directors. That, since his arrival in England, he has written a letter to the chairman of that court, professedly in answer to their letter above mentioned, but in fact giving no explanation or satisfaction whatsoever on the points which they had declared to be unintelligible. That the terms of his letter are ambiguous and obscure, such as a guilty man might have recourse to, in order to cover his guilt, but such as no innocent man, from whom nothing was required but to clear his innocence, by giving plain answers to plain questions, could possibly have made use of. That in his letter of the 11th of July, 1785 he says, "that he has been kindly apprized, that the information required as above *was yet expected from him:* that the submission which his respect would have enjoined him to pay to the command imposed on him, *was lost to his recollection*, perhaps from the stronger impression, which the first and distant perusal of it had left on his mind, that it was rather intended as a reprehension for something which had given offence in his report of the original transaction, than as expressive of any want of a further elucidation of it."

That the said Warren Hastings, in affecting to doubt whether the information expressly required of him by his employers was expected or not, has endeavoured to justify a criminal delay and evasion in giving it. That, considering the importance of the subject, and the recent date of the command, it is not possible *that it could be lost to his recollection;* much less is it possible that he could have understood the specific demand of an answer to specific questions to be intended only as a reprehension for a former offence; viz. the offence of withholding from the directors that very explanation which he ought to have given in the first instance. That the said Warren Hastings, in his answer to the said questions, cautiously avoids affirming or denying any thing in clear positive terms, and professes to recollect nothing with absolute certainty. That he has not, even now, informed the directors of the name of any one person, from whom any part of the money in question was received, nor what was the motive of any one person for giving the same. That he has, indeed, declared that his motive for lending to the company, or depositing in their treasury in his own name, money, which he has, in other places, declared to be their property, was to avoid ostentation, and that *lending* the money was *the least liable to reflection;* yet, when he has stated these and other conjectural motives for his conduct, he declares *he will not affirm, though he is firmly persuaded, that those were his sentiments on the occasion.* That of one thing only the said Warren Hastings declares he is *certain;* viz. "That it was his design originally to have *concealed* the receipt of all the sums except the second, even from the knowledge of the court of directors; but that when fortune threw a sum in his way of a magnitude which *could not be concealed*, and the peculiar delicacy of his situation at the time in which he had received it made him more circumspect of appearances, he *chose* to apprize his employers of it." That the said Warren Hastings informs the directors that he had endorsed the bonds taken by him for money belonging to the company, and lent by him to the company, *in order to guard against their becoming a claim on the company, as a part of his estate, in the event of his death;* but he has not affirmed, nor does it any where appear, that he has surrendered the said bonds, as he ought to have done. That the said Warren Hastings, in affirming that he had not time to answer the questions put to him by the directors, while he was in Bengal—in not bringing with him to England the documents necessary to enable him to answer those questions, or in pretending that he has not brought them—in referring the directors back again to Bengal for those documents, and for any further information, on a subject on which he has given them no information, and particularly in referring them back to a person in Bengal for a paper, which, he says, contained the *only* account he ever kept of the transaction, while he himself professes to doubt whether the paper *be still in being*, whether *it be in the hands* of that person, or whether that person can *recollect any thing distinctly concerning it*—has been guilty of gross evasions, and palpable prevarication and deceit, as well as of contumacy and disobedience to the lawful orders of the court of directors; and thereby confirmed all the former evidence of his having constantly used the influence of his station for the most scandalous, illegal, and corrupt purposes.

IX. RESIGNATION OF THE OFFICE OF GOVERNOUR-GENERAL.

THAT Warren Hastings having, by his agent, Lauchlin Macleane, Esquire, on the 10th day of October, in the year 1776, "signified to the court of directors his desire to resign his office of governour-general of Bengal, and requested their nomination of a successour to the vacancy, which would be thereby occasioned in the supreme council," the court of directors did thereupon desire the said Lauchlin Macleane "to inform them of the authority under which he acted in a point of such very great importance;" and the said Lauchlin Macleane "signifying thereupon his readiness to give the court every possible satisfaction on that subject, but the powers with which he was intrusted by the papers in his custody, being mixed with other matters of a nature extremely confidential, he would submit the same to the inspection of any three of the members of the court," the said court of directors empowered the chairman, deputy chairman, and Richard Becher, Esquire, to inspect the authorities, powers, and directions, with which Mr. Macleane was furnished by Mr. Hastings, to make the propositions contained in his letter of the 10th October, 1776, and to report their opinion thereon. And the said committee did accordingly, on the 23d of the said month, report, "that, having conferred with Mr. Macleane on the subject of his letter presented to the court the 11th instant, they found, that, from the purport of Mr. Hastings's instructions, contained in a paper in his own hand-writing given to Mr. Macleane, and produced by him to them, Mr. Hastings declared he would not continue in the government of Bengal, unless certain conditions, therein specified, could be obtained, of which they saw no probability; and Mr. George Vansittart had declared to them, that he was present when these instructions were given to Mr. Macleane, and when Mr. Hastings empowered Mr. Macleane to declare his resignation to the said court; that Mr. Stewart had likewise confirmed to them that Mr. Hastings declared to him, that he had given directions to the above purpose by Mr. Macleane."

And the court of directors, having received from the said report due satisfaction respecting the authority vested in the said Lauchlin Macleane to propose the said resignation of the office of governour-general of Bengal, did unanimously resolve to accept the same; and did also, under powers vested in the said court by the act of the 13th year of his present majesty, nominate and appoint Edward Wheler, Esquire, to succeed to the office in the council of Fort William in Bengal, which will become vacant by the said resignation, if such nomination shall be approved by his majesty:" which nomination and appointment was afterwards, in due form, approved and confirmed by his majesty.

That the court of directors did, by a postscript to their general letter, dated 25th October, 1776, acquaint the governour-general and council at Calcutta of their acceptance of the said resignation, of their appointment of Edward Wheler, Esquire, to fill the said vacancy, and of his majesty's approbation of the said appointment, together with the grounds of their said proceedings; and did transmit to the said govenour-general and council copies of the said instruments of appointment and confirmation."

That the said despatches from the court of directors were received at Calcutta, and were read in council on the 19th day of June, in the year 1777; and that Warren Hastings, Esquire, having taken no steps to yield the government to his successour, General Clavering, and having observed a profound silence on the subject of the said despatches, he, the said General Clavering, did, on the next day, being the 20th of June, by a letter addressed to the said Warren Hastings, require him to surrender the keys of Fort William and of the company's treasuries; but the said Warren Hastings did positively refuse to comply with the said requisition, "denying that his office was vacated, and declaring his resolution to assert and maintain his authority by every legal means."

That the said General Clavering, conceiving that the office of governour-general was vacated by the arrival of the said despatches, which acquainted the council-general of the resignation of the said Warren Hastings, and the appointment of the said Edward Wheler, Esquire, and that he, the said General Clavering, had in consequence thereof legally succeeded, under the provisions of the act of the 13th year of his present majesty's reign, to the said office of governour-general, become vacant in the manner aforesaid, did, in virtue thereof, issue in his own name summonses to Richard Barwell, Esquire, and Philip Francis, Esquire, members of the council, to attend the same; and in the presence of the said Philip Francis, Esquire, who obeyed the said summons, did take the oaths as governour-general, and did sit and preside in

council as governour-general; and prepared several acts and resolutions in the said capacity of governour-general, and did amongst other things, prepare a proclamation to be made of his said succession to the government, and of its commencing from the date of the said proclamation; but did not carry any of the acts or resolutions so prepared into execution.

That the said Warren Hastings did, notwithstanding thereof, and in pursuance of his resolution to assert and maintain his authority, illegally and unjustifiably summon the council to meet in another department, and did sit and preside therein, apart from the said General Clavering and his council; and in conjunction with Richard Barwell, Esquire, who concurred therein, issued sundry orders, and did sundry acts of government belonging to the office of governour-general; and, amongst others, did order several letters to be written in the name of the governour-general and council, and did subscribe the same, to the commandant of the garrison of Fort William, and to the commanding officer at Barrackpore, and to the commanding officers at the other stations, and also to the provincial councils and collectors in the provinces, enjoining them severally "to obey no orders, excepting such as should be signed by the said Warren Hastings, or a majority of his council."

That the said Warren Hastings did, by the said proceedings, which were contrary both to law and to good faith, constitute a double government, thereby destroying and annihilating all government whatever; and by his said orders to the military officers, did prepare for open resistance by arms, exposing thereby the settlement, and all the inhabitants, subject of or dependent on the British government, whether native or European, not only to political distractions, but to the horrours of civil war; and did, by exposing the divisions and weakness of the supreme government, and thereby loosening the obedience of the provinces, shake the whole foundation of British authority, and imminently endanger the existence of the British nation in India.

That the said evils were averted only by the moderation of the said General Clavering and Philip Francis, Esquire, in consenting to a reference, and submitting to the decision of the judges of the supreme court of judicature, although they entertained no doubt themselves on the legality of their proceedings, and the validity of General Clavering's instant right to the chair; and although they were not in any way bound by law to consult the said judges, who had no legal or judicial authority therein in virtue of their offices, or as a court of justice, but were consulted, and interposed their advice only as individuals, by the voluntary reference of the parties in the said dispute. And the said Warren Hastings, by his declaration entered in minutes of council, "that it was his determination to abide by the opinion of the judges," and by the measures he had previously taken as aforesaid to enforce the same by arms, did risk all the dangerous consequences above mentioned; which must have taken place, if the said General Clavering and Philip Francis, Esquire, had not been more tender of the public interests, and less tenacious of their own rights, and had persisted in their claim, as they were by law entitled to do, the extrajudicial interposition of the judges notwithstanding; and from which claim they receded only from their desire to preserve the peace of the settlement, and to prevent the mischiefs which the illegal resistance of the said Warren Hastings would otherwise infallibly have occasioned.

That after the said judges had delivered their opinion, "That the place and office of governour-general of this presidency had not yet been vacated by Warren Hastings, and that the actual assumption of the government by the member of the council next in succession to Mr. Hastings, in consequence of any deduction which could be made from the papers communicated to them, would be absolutely illegal;" and after the said General Clavering and Philip Francis, Esquire, had signified to the said Warren Hastings, by a letter dated the 21st of June, "their intention to acquiesce in the opinion of the judges;" and when the differences in the supreme council were by these means composed, and the calamities consequent thereon were avoided, the said Warren Hastings and Richard Barwell, Esquire, did once more endanger the public peace and security, by other illegal, unwarrantable, and unprovoked acts of violence; having omitted to summon either the said General Clavering, or the said Philip Francis, Esquire, to council: and having, in council held thus privately and clandestinely, and contrary to law, on the 22d day of June, come the following resolutions, viz.

"Resolved, that by the said acts, orders, and declarations of Lieutenant-General John Clavering, recited in the foregoing papers [meaning the proceedings of General Clavering in his separate council on the 20th of June] he has actually usurped and assumed, and taken possession of the place and office of

governour-general of the presidency of Fort William, in Bengal, granted by the act of the 13th of his present majesty to Warren Hastings, Esquire.

"Resolved, that Lieutenant-General John Clavering has thereby relinquished, resigned, surrendered, and vacated the office of seniour counsellour of Fort William, in Bengal.

"Resolved, that Lieutenant-General John Clavering has thereby relinquished, resigned, surrendered, and vacated his place of commander-in-chief of the company's forces in India.

"Resolved, that Richard Barwell, Esquire, by virtue of the said act of parliament and by the death of the honourable George Monson, Esquire, is promoted to the office of seniour counsellor of the presidency of Fort William, in Bengal, in consequence of the said relinquishment, resignation, surrender, and vacation of General Clavering.

"Resolved, that the office of commander-in-chief of the company's forces in India, by the relinquishment, resignation, surrender, and vacation of General Clavering, and by the death of the honourable George Monson, Esquire, does no longer exist.

"Resolved, that, for the preservation of the legality of our proceedings, Lieutenant-General John Clavering be not in future summoned or admitted as a member of the governour-general and council."

And the said Warren Hastings and Richard Barwell, Esquire, did again sit in council on the next day, being the 23d of June, without summoning either General Clavering, or Philip Francis, Esquire; and did come to several other resolutions, and make several orders, contrary to law and justice, and inconsistent wiih the tranquillity and the security of the settlement; that is to say, they ordered their secretary "to notify to General Clavering, that the board had declared his offices of seniour counsellour and commander-in-chief to be vacant; and to furnish him with a copy of these proceedings, containing the grounds of the board for the aforesaid declaration."

And they ordered extracts of the said proceedings "to be issued in general orders, with letters to all the provincial councils and military stations, directing them to publish the same in general orders:" and they resolved, "that all military returns be made to the governour-general and council in their military department, until a commander-in-chief shall be appointed by the company."

That on the day following, that is to say, on the 24th of June, the said Warren Hastings did again omit to summon General Clavering to council, and did again, together with Richard Barwell, Esquire, who concurred therein, adhere to and confirm the said illegal resolutions come to on the two former days, declaring, "that they could not be retracted but by the present authority of the law, or by future orders from home;" and aggravating the guilt of the said unjustifiable acts by declaring, as the said Warren Hastings did, "that they were not the precipitate effects of an instant and passionate impulse, but the fruits of long and most temperate deliberations, of inevitable necessity, and of the strictest sense of public duty, and a conviction equal in its impression on his mind to absolute certainty."

That the said Warren Hastings was the less excusable in this obstinate adherence to his former unjust proceedings, as the said declarations were made in answer to a motion made by Philip Francis, Esquire, for the reversal of the said proceedings, and to a minute introducing the said motion; in which Mr. Francis set forth in a clear and forcible manner, and in terms with which the court of directors have since declared their entire concurrence, both the extreme danger and the illegality and invalidity of the said proceedings of Warren Hastings and Richard Barwell, Esquire, concluding the said minute by the following conciliatory declaration: "and, that this salutary motion may not be impeded by any idea or suspicion that General Clavering may do any act inconsistent with the acquiescence, which both he and I have avowed in the decision of the judges, I will undertake to answer for him in this respect; or that, if he should depart from the true spirit and meaning of that acquiescence, I will not be a party with him in such proceedings."

That the said Warren Hastings could not plead ignorance of the law in excuse for the said illegal acts, as it appears from the proceedings of the four preceding days, that he was well acquainted with the tenure by which the members of the council held their offices under the act of the 13th of his present majesty, and had stated the same as a ground for retaining his own office, contrary to an express declaration of the court of directors, and an instrument under the sign manual of his majesty: and the judges of the supreme court, in their reasons for their decision in his favour, had stated the provisions in the said act, so far as they related to the matter in dispute; from which it appeared, that there

were but four grounds on which the office of any member of the council could be vacated; namely, death, removal, resignation, or promotion. And as the act confined the power of removal to "his majesty, his heirs and successours, upon representation made by the court of directors of the said united company for the time being;" and conferred no such power on the governour-general or a majority of the council, to remove, on any ground, or for any cause whatever, one of their colleagues; so, granting the claim of General Clavering to the chair, and his acts done in furtherance thereof, to have been illegal and criminal in whatever degree, yet it did not furnish to the rest of the council any ground to remove him from his office of counsellour under the provisions of the said act: and there could therefore remain only his *resignation* or *promotion*, as a possible means of vacating his said office. But with regard to the promotion of General Clavering to the office of governour-general, although he claimed it himself, yet, as Mr. Hastings did not admit it, and as in fact it was even receded from by General Clavering, it could not be considered, at least by Mr. Hastings, as a valid ground for vacating his office of seniour counsellour, since the act requires for that purpose, not a rejected claim, but an actual and effectual promotion; and General Clavering's office of counsellour could no more be vacated by such a naked claim, unsupported and disallowed, than the seat of a member of the house of commons could be vacated, and a new writ issued to supply the vacancy, by his claim to the office of steward of the Chiltern Hundreds, when his majesty has refused to appoint him to said office. And with regard to resignation, although the said Warren Hastings, as a colour to his illegal resolutions, had affectedly introduced the word "resigned" amongst those of "relinquished, surrendered, and vacated," yet he well knew that General Clavering had made no offer nor declaration of his resignation of his offices of seniour counsellour and commander-in-chief; and that he did not claim the office of governour-general on the ground of any such resignation made by himself, but on the ground of a resignation made by the said Warren Hastings, which resignation the said Warren Hastings, did not admit; and the use of the term *resigned*, on that occasion, was therefore a manifest and wilful misconstruction and misapplication of the words of the act of his present majesty. And such misinterpretation and false extension of the term of resignation was the more indecent in the said Warren Hastings, as he was at the same moment disavowing and refusing to give effect to his own clear and express resignation, according to the true intent and meaning of the word as used in the said act, made by his agent, duly authorized and instructed by himself so to do, to an authority competent to receive and accept the same.

That although the said Warren Hastings did afterwards recede from the said illegal measures in compliance with the opinion and advice of the judges again interposed, and did thereby avoid the guilt of such further acts, and the blame of such further evils, as must have been consequent on a persistence therein; yet he was, nevertheless, still guilty of the illegal acts above described; and the same are great crimes and misdemeanours.

That although the judges did decide that the office of governour-general, held by the said Warren Hastings, was not *ipso facto* and *instanter* vacated by the arrival of the said despatches and documents transmitted by the court of directors; and did consider the said consequences of the resignation as awaiting some future act or event for its complete and effectual operation; yet the said judges did not declare any opinion on the ultimate invalidity of the said acts of Lauchlin Macleane, Esquire, as not being binding on his principal, Warren Hastings, Esquire, nor did they declare any opinion that the obligation of the said resignation was not from the beginning conclusive and effectual, although its operation was from the necessity of the case, on account of the distance between England and India, to take place only in future; or that the said resignation made by Lauchlin Macleane, Esquire, was only an offer or proposal of a resignation to be made at some future and indefinite period, or a mere intimation of the desire of Warren Hastings, Esquire, to resign at some future and indefinite period, and that the said resignation, notwithstanding the acceptance thereof by the court of directors, and the regular appointment and confirmation of a successour, was still to remain optional in the said Warren Hastings, to be ratified or departed from at his future choice or pleasure; nor did the said judges pronounce, nor do any of their reasonings, which accompanied their decision, tend to establish it as their opinion, that even the time for ratifying and completing the said transaction was to be at the sole discretion of the said Warren Hastings; but they only delivered their opinion, as aforesaid, that his said office "has not

yet been vacated, and therefore that the *actual* assumption of the government by the member of the council next in succession was, in the actual circumstances, and *rebus sic stantibus*, illegal."

That the said Warren Hastings does nowhere himself contend, that the said resignation was not absolute, but optional, according to the true meaning and understanding of the parties in England, and so far as the acts of Lauchlin Macleane, Esquire, and the court of directors were binding on him; but, on the contrary, he grounds his refusal to complete the same, not on any interpretation of the words in which the said resignation, and the other instruments aforesaid were conceived, but rather on a disavowal (not direct indeed, but implied) of his said agent, and of the powers under which the said agent had claimed to act in his behalf. Neither did the said Warren Hastings ground his said refusal on any objection to the particular day, or period, or circumstances, in which the requisition of General Clavering was made; nor accompany the said refusal with any qualification in that respect, or with any intimation that he would, at any future or more convenient season, comply with the same; although such an intimation might probably have induced General Clavering to wave an instant and immediate claim to the chair, and might, therefore, have prevented the distractions which happened, and the greater evils which impended, in consequence of the said claim of General Clavering, and the said refusal of Warren Hastings, Esquire. But the said Warren Hastings did, on the contrary, express his said refusal in such general and unqualified terms as intimated an intention to resist absolutely and altogether, both then and at any future time, the said requisition of General Clavering. And the subsequent proceedings of the said Warren Hastings do all concur in proving that such was his intention; for he did afterwards, in conformity to the advice of the judges, move a resolution in council "that all parties be placed in the same situation in which they stood before the receipt of the last advices from England; reserving and submitting to a decision in England the respective claims that each party may conceive they have a right to make, but not acting upon those claims till such decision shall arrive in Bengal;" thereby clearly and explicitly declaring, that it was not his intention to surrender the government until such decision should arrive in Bengal, which could not be expected in less time than a year and a half after the date of the said resolution; and thereby clearly and explicitly declaring, that he did not consider his resignation as binding for the present. And the said intention was manifested, if possible, still more directly and expressly in a letter written by the said Warren Hastings, to the court of directors, dated the 15th of August, 1777, being almost two months after the receipt of the said despatches; in which the said Warren Hastings declares, that "he did not hold himself bound by the notification made by Mr. Macleane, nor by any of the acts consequent of it."

That such appearing to have been the intention of the said Warren Hastings, General Clavering was justified in immediately assuming the government, without waiting for any future act of the said Warren Hastings for the actual surrender of the said government, none such being likely to happen; and Philip Francis, Esquire, was justified in supporting General Clavering in the same on the soundest principles of justice, and on a maxim received in courts of equity, namely, that no one shall avail himself of his own wrong; and that, if any one refuse or neglect to perform that which he is bound to do, the rights of others shall not be prejudiced thereby, but such acts shall be deemed and reputed to have been actually performed, and all the consequences shall be enforced, which would have followed from such actual performance. And therefore the resolutions moved and voted in council by the said Warren Hastings, declaring the offices of General Clavering to be vacant, were not only illegal, inasmuch, as the said Warren Hastings had no authority to warrant such a declaration, even on the supposition of the acts of General Clavering being contrary to law; but the said resolutions were further highly culpable and criminal, inasmuch as the said acts done by General Clavering, which were made the pretence of that proceeding, were strictly regular and legal.

That the refusal of the said Warren Hastings to ratify the resignation, and his disavowal of the said Lauchlin Macleane, his agent, is not justified by any thing contained in his said letter to the court of directors, dated on the 15th of August, 1777, the said Warren Hastings no where directly and positively asserting, that the said Lauchlin Macleane was not his agent, and had not both full and general powers, and even particular instructions for this very act; although the said Warren Hastings uses many indirect and

circuitous, but insufficient and inapplicable insinuations to that effect. And the said letter does, on the contrary, contain a clear and express avowal, that the said Lauchlin Macleane was his confidential agent, and that in that capacity he acted throughout and particularly in this special matter, with zeal and fidelity. And the said letter does further admit in effect the instructions produced by the said Lauchlin Macleane, Esquire, confirmed by Mr. Vansittart and Mr. Stewart, and relied on and confided in by the court of directors, by which the said Lauchlin Macleane appeared to be specially empowered to declare the said resignation; the words of the said instruction being as follows: "that he (Mr. Hastings *will not continue in the government of Bengal*," "unless certain conditions therein specified can be obtained:" and the words of the said letter being as follow; "What I myself know with certainty or can recollect at this distance of time, concerning the powers and instructions which were given to Messieurs Macleane and Graham, when they undertook to be my agents in England, I will circumstantially relate.

"I am in possession of two papers, which were presented to those gentlemen at the time of their departure from Bengal; one of which comprises four short propositions, *which I required as the conditions of my being confirmed in this government.*"

And although the said Warren Hastings does here artfully somewhat change the words of his written instructions (and which, having in his possession, he might as easily have given verbatim) to other words which may appear less explicit, yet they are in fact capable of only the same meaning; for as, at the time of giving the said instructions to his agents, he was in full possession of his office, he could want no confirmation therein, except *his own;* and, in such circumstances, "to require certain things, *as the conditions of his being confirmed in his government*, is tantamount to a declaration, *that he will not continue in his government, unless those conditions can be obtained.*" And the said attempt at prevarication can serve its author the less, as either both sentences have one and the same meaning, or if their meaning be different, the original instructions in his own handwriting, or, in other words the thing itself, must be preferred as evidence of its contents to a loose statement of its purport, founded, perhaps, on a loose recollection of it at a great distance of time.

That the refusal of the said Warren Hastings, Esquire, was a breach of faith with the court of directors, and his majesty's ministers in England; as the said resignation was not merely a voluntary offer, without any consideration, and therefore subject to be recalled or retracted at the pleasure of the said Warren Hastings, but ought rather to be considered as having been the result of a negotiation carried on between Mr. Macleane for the benefit of Warren Hastings, Esquire, on the one hand, and by the court of directors for the interests of the company on the other; which view of the transaction will appear the more probable, when it is considered that at the time of the said resignation, a strict inquiry had been carrying on by the court of directors into the conduct of the said Warren Hastings; and the solicitor and counsel to the company, and other eminent counsel, had given it as their opinions, on cases stated to them, that there were grounds for suing the said Warren Hastings in the courts of law and equity; and that the company would be entitled to recover in the said suits against Warren Hastings, Esquire, several very large sums of money taken by him in his office of governour-general, contrary to law, and in breach of his covenants, and of his duty to the company and the public; and the court of directors had also come to various severe resolutions of censure against the said Warren Hastings, and amongst others to a resolution to recall the said Warren Hastings, and remove him from his office of governour-general, to answer for sundry great crimes and delinquencies by him committed in his said office.

And on these accounts it appears probable, that the said resignation was tendered and accepted as a consideration for some beneficial concessions made in consequence thereof to the said Warren Hastings in his said dangerous and desperate condition.

And the said refusal was also an act of great disrespect to the court of directors and to his majesty; and by rendering abortive their said measures, solemnly and deliberately taken, and ratified and confirmed by his majesty, tended to bring the authority of the court of directors, and of his majesty into contempt.

And the said refusal was an injury to General Clavering.

And was also, or might have been, a great injury to Edward Wheler, Esquire.

And was an act of signal treachery to Lauchlin Macleane, Esquire, as also to Mr. Vansittart and Mr. Stewart, whose honour

and veracity were thereby brought into question, doubt, and suspicion.

And the said refusal was prejudicial to the affairs of the servants of the company in India, by shaking the confidence to be placed in their agents by those persons with whom it might be for their interest to negotiate on any matter of importance, and by thus subjecting the communication of persons abroad with those at home to difficulties not known before.

X. SURGEON-GENERAL'S CONTRACT.

THAT the said Warren Hastings, in the year 1777, did grant to the surgeon-general a contract for three years, for defraying every kind of hospital and medicine expense, not only in breach of the general order of the court of directors with respect to the duration of contracts, but in direct opposition to a particular order of the court of directors, of the 30th of March, 1774, when they directed, "that the surgeon should not be permitted to enjoy any emolument arising from his being concerned in dieting the patients; and that the occupations of surgeon and contractor should be forthwith separated." That the said contract was in itself highly improper, and inconsistent with the good of the service; as it afforded the greatest temptation to abuse, and established a pecuniary interest in the surgeon-general, contrary to the duties of his station and profession.

XI. CONTRACTS FOR POOLBUNDY REPAIRS.

THAT the governour-general and council at Fort William did, on the motion and recommendation of Warren Hastings, Esquire, enter into a contract with Archibald Frazer, Esquire, on the 16th of April, 1778, for the repairs of the pools and banks in the province of Burdwan, for two years, at the rate of 120,000 sicca rupees for the first year, and 80,000 rupees for the second year.

That on the 19th of December, 1778, the said Warren Hastings did further persuade the supreme council to prolong the term of the above contract with Archibald Frazer for the space of three years more on the same conditions; namely, the payment of 80,000 sicca rupees for each year. To which was added a permission to Mr. Frazer to make *dobunds*, or special repairs, whenever he should judge them necessary, at the charge of government.

That the said contracts, both in the manner of their acceptance by the supreme council, without having previously advertised for proposals, and in the extent of their duration, were made in direct violation of the special orders of the court of directors.

That so far from any advantage having been obtained for the company in the terms of these contracts, in consideration of the length of time for which they were to continue, the expense of government upon this article was increased by these engagements to a very great amount.

That it appears that this contract had been held for some years before by the rajah of Burdwan, at the rate of 25,000 rupees per annum.

That the superintendent of Poolbundy repairs, after an accurate and diligent survey of the bunds and pools, and the provincial council of Burdwan, upon the best information they could procure, had delivered it as their opinion to the governour-general and council, before the said agreement was entered into, that after the heavy expense (stated in Mr. Kinlock's estimate, viz. 119,405 sicca rupees) if disbursed as they recommended, the charge in future seasons would be greatly reduced, *and after one thorough and effectual repair, they conceived a small annual expense would be sufficient to keep the bunds up and prevent their going to decay.*

That whatever extraordinary and unusual damages the pools and bunds might have sustained, either from the neglect of the rajah's officers, or from the violence of the then late rains, and the torrents thereby occasioned, to justify the expense of the first year, yet as they were all considered and included in the estimate for that year, there could be no pretence for allowing and continuing so large and burthensome a payment as 80,000 rupees per annum for the four succeeding years.

That the said Warren Hastings did, in his minutes of the 12th of February, 1778, himself support that opinion, in the comparison to be made between Mr. Thomson's proposals of undertaking the same service for 60,000 rupees a year, for nine years, and the terms of Mr. Frazer's contracts; preferring the latter, because these were "to effect a complete repair, which could hardly be concluded in any season, and the subsequent expense would be but trifling.

Notwithstanding which, the said Warren Hastings urged and prevailed upon the council to allow the first year the full amount proposed by Mr. Kinlock in his estimate of the necessary repairs, and did burthen the company with what he must have deemed to be, for the greater part an unnecessary expense of 80,000 rupees per annum for four years.

That the permission granted to Mr. Frazer to make dobunds, or new and additional embankments in aid of the old ones, whenever he should judge them necessary, at the charge of government (the said charge to be verified by the oath of the said Frazer, without any voucher) was a power very much to be suspected, and very improper to be entrusted to a contractor, who had already covenanted to keep the old pools in perfect repair, and to construct new ones wherever the old pools had been broken down and washed away, or where the course of the rivers might have rendered new ones necessary, in consideration of the great sums stipulated to be paid to him by the government.

That the grant of the foregoing contracts, and the permission afterwards annexed to the second of the said grants, become much more reprehensible from the consideration of the circumstances of the person, to whom such a grant was made.

That the due performance of the service required local knowledge and experience, which the said Archibald Frazer, being an officer in the supreme court of justice, could not have possessed.

XII. CONTRACTS FOR OPIUM.

THAT it appears, that the opium produced in Bengal and Bahar is a considerable and lucrative article in the export trade of those provinces; that the whole produce has been for many years monopolized either by individuals or by the government; that the court of directors of the East-India company, in consideration of the hardship imposed on the native owners and cultivators of the lands, who were deprived of their natural right of dealing with many competitors, and compelled to sell the produce of their labour to a single monopolist, did authorise the governour-general and council to give up that commodity as an article of commerce.

That while the said commodity continued to be a monopoly for the benefit of government, and managed by a contractor, the contracts for providing it were subject to the company's fundamental regulation, namely, to be put up to auction, and disposed of to the best bidder; and that the company particularly ordered that the commodity, when provided, should be consigned to the board of trade, who were directed to dispose thereof by public auction.

That in May, 1777, the said Warren Hastings granted to John Mackenzie a contract for the provision of opium, to continue three years, and without advertising for proposals; that this transaction was condemned by the court of directors, notwithstanding a clause had been inserted in that contract, by which it was left open to the court of directors to annul the same at the expiration of the first or second year.

That about the end of the year 1780 the said Warren Hastings, in contradiction to the order above mentioned, did take away the sale of the opium from the board of trade, though he disclaimed, at the same time, any *intention of implying a censure on their management.*

That in March, 1781, the said Warren Hastings did grant to Stephen Sulivan, son of Lawrence Sulivan, chairman of the court of directors of the East-India company, a contract for the provision of opium, without advertising for proposals, and without even receiving any written proposals from him, the said Sulivan; that he granted this contract for four years, and, at the request of the said Sulivan, did omit that clause, which was inserted in the preceding contract, and by which it was rendered liable to be determined by orders from the company; the said Warren Hastings declaring, contrary to truth, that such clause was now unnecessary, as the directors *had approved* the contract.

That the said Sulivan had been but a few months in Bengal when the above contract was given him; that he was a stranger to the country and to all the local commerce thereof, and therefore unqualified for the management of such a concern; and that the said Sulivan, instead of executing the contract himself, did, shortly after obtaining the same, assign it over to John Benn and others; and in consideration of such assignment did receive from the said Benn a great sum of money.

That, from the preceding facts, as well as from sundry other circumstances of restrictions taken off (particularly by abolishing the office of inspector into the quality of the opi-

um) and of beneficial clauses introduced, it appears that the said Warren Hastings gave this contract to the said Stephen Sulivan in contradiction to the orders of the court of directors, and without any regard to the interests of the India company, for the sole purpose of creating an instant fortune for the the said Sulivan at the expense of the India company, without any claim of service or pretence of merit on his part, and without any apparent motive whatever, except that of securing or rewarding the attachment and support of his father, Lawrence Sulivan, a person of great authority and influence in the direction of the company's affairs, and notoriously attached to and connected with the said Warren Hastings.

That the said Stephen Sulivan neither possesssed, nor pretended to possess, any skill in the business of his contract; that he exerted no industry, nor showed, or could show, any exactness in the performance of it, since he immediately sold the contract for a sum of money to another person (for the sole purpose of which sale it must be presumed, the same was given) by which person another profit was to be made; and by that person the same was again sold to a third, by whom a third profit was to be made.

That the said Warren Hastings, at the very time when he engaged the company in a contract for engrossing the whole of the opium produced in Bengal and Bahar in the ensuing four years, on terms of such exorbitant profit to the contractor, affirmed, "there was little prospect of selling the opium in Bengal at a reasonable price; and that it was but natural to suppose that the price of opium *would fall from the demand being lessened*:" that, in a letter dated the 5th of May, 1781, he informed the directors, "that owing to the indifferent state of the markets last season to the eastward, and the very enhanced rates of insurance, which the war had occasioned, they had not been able to dispose of the opium of the present year to so great an advantage as they expected; and that more than one half of it remained still in their warehouses." That the said Warren Hastings was guilty of a manifest breach of trust to his constituents, and his employers in monopolizing for their pretended use an article of commerce, for which he declared *no purchasers had offered, and that there was little prospect of any offering; and the price of which*, he said, *it was but natural to suppose would fall*. That the said Warren Hastings having, by his own act, loaded the company with a commodity, for which, either in the ordinary and regular course of public auction, or even by private contract, there was, as he affirmed, no sale, did, under pretence of finding a market for the same, engage the company in an enterprise of great and certain expense, subject to a manifest risk, and full of disgrace to the East-India company, not only in their political character, as a great sovereign power in India, but in their commercial character, as an eminent and respectable body of merchants: and that the execution of this enterprise was accompanied with sundry other engagements with other persons, in all of which the company's interest was constantly sacrificed to that of individuals favoured by the said Warren Hastings.

That the said Warren Hastings first engaged in a scheme to export one thousand four hundred and sixty chests of opium, on the company's account, on board a ship belonging to Cudbert Thornhill; half of which was to be disposed of in a coasting voyage, and the remainder in Canton. That besides the freight and commission payable to the said Thornhill on this adventure, twelve pieces of cannon belonging to the company were lent for arming the ship; though his original proposal was, that the ship should be armed at his expense. That this part of the adventure, depending for its success on a prudent and fortunate management of various sales and resales in the course of a circuitous voyage; and being exposed to such risk both of sea and enemy, that all private traders had declined to be concerned in it; was particularly unfit for a great trading company, and could not be undertaken on their account with any rational prospect of advantage.

That the said Warren Hastings soon after engaged in another scheme for exporting two thousand chests of opium directly to China on the company's account, and for that purpose accepted of an offer made by Henry Watson, the company's chief engineer, to convey the same in a vessel of his own, and to deliver it to the company's supercargoes. That after the offer of the said Henry Watson had been accepted, a letter from him was produced at the board, in which he declared, that he was unable to equip the ship with a proper number of cannon, and requested that he might be furnished with thirty-six guns from the company's stores at Madras; with which request the board complied. That it appears that George Williamson, the company's auctioneer at Calcutta, having complained, that by this mode of exporting the

opium, which used to be sold by public auction, he lost his commission as auctioneer, the board allowed him to draw a commission of one per cent. on all the opium which had been or was to be exported. That it appears, that the contractor for opium (whose proper duties and emoluments, as contractor, ended with the delivery of the opium) was also allowed to draw a commission on the opium then shipping on the company's account; but for what reason, or on what pretence, does not appear.

That the said Warren Hastings, in order to pay the said Stephen Sulivan in advance for the opium furnished, or to be furnished, by him in the first year of his contract, did borrow the sum of twenty lacks of rupees at eight per cent. or two hundred thousand pounds sterling, to be repaid by draughts to be drawn on the company, by their supercargoes, in China, provided the opium consigned to them should arrive safe; but that if the adventure failed, whether by the loss of the ships or otherwise, the subscribers to the above loan were to be repaid their capital and interest out of the company's treasury in Bengal.

That the said Warren Hastings, having in this manner purchased a commodity, for which he said there was no sale, and paid for it with money which he was obliged to borrow at a high interest, was still more criminal in his attempt or pretended plan to introduce it clandestinely into China. That the importation of opium into China is forbidden by the Chinese government; that the opium, on seizure, is burnt; the vessel, that imports it, confiscated; and the Chinese, in whose possession it may be found for sale, punished with death.

That the governour-general and council were well aware of the existence of these prohibitions and penalties, and did therefore inform the supercargoes in China, that the ship belonging to the said Henry Watson would enter the river at China as an armed ship, *and would not be reported as bearing a cargo of opium; that being contraband trade.* That of the above two ships, the first, belonging to Cudbert Thornhill, was taken by the French; and that the second, arriving in China, did occasion much embarrassment and distress to the company's supercargoes there, who had not been previously consulted on the formation of the plan, and were exposed to great difficulty and hazard in the execution of their part of it. That the ship was delayed, at a demurrage of an hundred dollars a day, for upwards of three months, waiting in vain for a better market. The factory estimate the *loss* to the company, including port charges, demurrage, and factory charges allowed the captain, at sixty-nine thousand nine hundred and ninety-three dollars, or about twenty thousand pounds sterling.

That the company's factory at China, after stating the foregoing facts to the court of directors, conclude with the following general observations thereon; "on a review of these circumstances, with the extravagant and unusual terms of the freight, demurrage, factory charges, &c. &c. we cannot help being of opinion, that private considerations have been suffered to interfere too much for any benefit that may have been intended to the honourable company. We hope for the honourable court's approbation of our conduct in this affair. The novelty and nature of the consignments have been the source of much trouble and anxiety; and, though we wished to have had it in our power to do more, we may truly say we have exceeded our expectations."

That every part of this transaction, from the monopoly, with which it commenced, to the contraband dealing, with which it concluded, criminates the said Warren Hastings with wilful disobedience of orders and a continued breach of trust; that every step taken in it was attended with heavy loss to the company, and with a sacrifice of their interest to that of individuals, and that if finally a profit had resulted to the company from such a transaction, no profit attending it could compensate for the probable risk to which their trade in China was thereby exposed; or for the certain dishonour and consequent distrust which the East-India company must incur in the eyes of the Chinese government, by being engaged in a low, clandestine traffic, prohibited by the laws of the country.

XIII. APPOINTMENT OF R. J. SULIVAN.

THAT, in the month of February, 1781, Mr. Richard Joseph Sulivan, secretary to the select committee at Fort St. George, applied to them for leave to proceed to Calcutta *on his private affairs.* That being the confidential secretary to the select committee at Fort St. George, and consequently possessed of all the views and secrets of the company, as far as they related to that government, he went privately into the service of the nabob of Arcot; and, under the pretence of proceeding to Calcutta on his private business,

undertook a commission from the said nabob to the governour-general and council, to negotiate with them in favour of certain projects of the said nabob, which had been reprobated by the company.

That the said Sulivan was soon after appointed back again by the said Warren Hastings to the office of resident at the durbar of the said nabob of Arcot. That it was a high crime and misdemeanour in the said Hastings to encourage so dangerous an example in the company's service, and to interfere unnecessarily with the government of Madras in the discharge of the duties peculiarly ascribed to them by the practice and orders of the company, for the purpose of appointing to a great and confidential situation a man who had so recently committed a breach of trust to his employers.

That the court of directors, in the letter to Bengal, dated the 12th of July, 1782, and received there on the 18th of February, 1783, did *condemn and revoke* the said appointment. That the said directors, in theirs to Fort St. George, dated the 28th of August, 1782, and received there the 31st of January, 1783, did highly condemn the conduct of the said Sulivan; and, in order to deter their servants from practices of the same kind, *did dismiss him from their service.*

That the said Hastings knowing that the said Sulivan's appointment had been condemned and revoked by the court of directors, and pretending that on the 15th of March, 1783, he did not know that the said Sulivan was *dismissed* from the company's service, though that fact was known at Madras on the 31st of the preceding January, did recommend the said Sulivan to be ambassadour at the court of Nizam Ally Cawn, subahdar of the deccan, in defiance of the authority and orders of the court of directors.

That even admitting, what is highly improbable, that the *dismission* of the said Sulivan from the service of the said company was not known at Calcutta in forty-three days from Madras, the last mentioned nomination of the said Sulivan was made at least in contempt of the censure already expressed by the court of directors at his former appointment to the durbar of the nabob of Arcot, and which was certainly known to the said Hastings.

XIV. RANNA OF GOHUD.

That on the second of December, 1779, the governour-general and council of Fort William, at the special recommendation and instance of Warren Hastings, Esquire, then governour-general, and contrary to the declared opinion and protest of three of the members of the council; viz, Philip Francis and Edward Wheler, Esquires, who were present; and of Sir Eyre Coote, who was absent (by whose absence the casting voice of the said Warren Hastings, Esquire, prevailed,) did conclude a treaty of perpetual friendship and alliance, offensive and defensive, with a Hindoo prince, called the Ranna of Gohud, for the express purpose of using the forces of the said ranna in opposition to the Mahrattas.

That, among other articles, it was stipulated with the said ranna, by the said Warren Hastings, "that whenever peace should be concluded between the company and the Mahratta state, the maha rajah should be included as a party in the treaty which should be made for that purpose, and his present possessions, together with the fort of Gualior, which of old belonged to the family of the maha rajah, if it should be then in his possession, and such countries as he should have acquired in the course of war, and which it should then be stipulated to leave in his hands, should be guarantied to him by such treaty."

That in the late war against the Mahrattas the said ranna of Gohud did actually join the British army, under the command of Colonel Muir, with two battalions of infantry, and 1,200 cavalry, and did then serve in person against the Mahrattas, thereby affording material assistance, and rendering essential service to the company.

That, in conformity to the above mentioned treaty, in the fourth article of the treaty of peace, concluded on the 13th of October, 1781, between Colonel Muir on the part of the English company, and Madajee Scindia the Mahratta general, the said ranna of Gohud was expressly included.

That, notwithstanding the said express provision and agreement, Madajee Scindia proceeded to attack the forts and lay waste the territories, of the said ranna, and did undertake to prosecute a war against him for the space of two years; in the course of which the ranna and his family were reduced to extreme distress, and in the end he was deprived of his forts, and the whole, not only of his acquired possessions, but of his original dominions, so specially guarantied to him by the British government in both the above-mentioned treaties.

That the said Warren Hastings was duly

and regularly informed of the progress of the war against the ranna, and of every event thereof; notwithstanding which, he not only neglected in any manner to interfere therein in favour of the said ranna, or to use any endeavours to prevent the infraction of the treaty, but gave considerable countenance and encouragement to Madajee Scindia in his violation of it, both by the residence of the British minister in the Mahratta camp, and by the approbation shown by the said Warren Hastings to the promises made by his agent of observing the strictest neutrality, notwithstanding he was in justice bound, and stood pledged by the most solemn and sacred engagements, to protect and preserve the said ranna from those enemies, whose resentment he had provoked only by his adherence to the interests of the British nation.

That, in the only attempt made to sound the disposition of Madajee Scindia, relative to a pacification between him and the ranna of Gohud, on the 14th of May, 1783, Mr. Anderson, in obedience to the orders he had received, did clearly and explicitly declare to Bhow Bucksey, the minister of the Madajee Scindia, the sentiments of the said Warren Hastings, in the words following:—"that it was so far from your (the said Hastings') meaning, to intercede in his (the said ranna's) favour, that I only desired him to sound Scindia's sentiments, and in case he was desirous of peace, to mention what I said; but if he seemed to prefer carrying on the war, I begged that he would not mention a syllable of what had passed, but let the matter drop entirely."

That it afterwards appeared in a minute of the said Hastings, in council at Fort William, on the 22d of September, 1783, that he promised, at the instance of a member of the council, to write to Lieutenant James Anderson in favour of the ranna of Gohud, and lay his letter before the board.

That nevertheless the said Hastings, professing not to *recollect* his said promise, did *neglect to write a formal letter to Lieutenant Anderson in favour of the said ranna of Gohud*, and that the private letter, the extract of which the said Hastings did lay before the board on the 21st of October, 1783, so far from directing any effectual interference in favour of the said ranna, or commanding his agent, the said James Anderson, to interpose the mediation of the British government to procure "*honourable terms*" for the said ranna, or even "*safety to his person and family*," contains the bitterest invectives against him, and is expressive of the satisfaction which the said Hastings acknowledges himself to have enjoyed in the distresses of the said ranna, the ally of the company.

That the measures therein recommended appear rather to have been designed to satisfy Madajee Scindia, and to justify the conduct of the British government in not having taken a more active and a more hostile part against the said ranna, than an intercession on his behalf.

That though no consideration of good faith, or observance of treaties, could induce the said Hastings to incur the hazard of any hostile exertion of the British force for the defence or the relief of the allies of the company, yet in the said private letter he directed, that, in case his mediation should be accepted, it should be made a *specific condition* that, *if the said ranna should take advantage of Scindia's absence to renew his hostilities, we ought in that case, on requisition, to invade the dominions of the ranna.*

That no beneficial effects could have been procured to the said ranna by an offer of mediation delayed till Scindia no longer wanted "*our assistance to crush so fallen an enemy;*" at the same time that no reason was given to Scindia to apprehend the danger of drawing upon himself the resentment of the British government by a disregard of their proposal, and the destruction of their ally.

That it was a gross and scandalous mockery in the said Hastings to defer an application to obtain honourable terms for the ranna, and safety for his person and family, till he had been deprived of his principal fort, in defence of which his uncle lost his life, and on the capture of which his wife, to avoid the dishonour consequent upon falling into the hands of her enemies, *had destroyed herself by an explosion of gunpowder.*

That, however, it does not appear that any offer of mediation was ever actually made, or any influence exerted, either for the safety of the ranna's person and family, or in mitigation of the *rigorous intentions* supposed by Lieutenant Anderson to have been entertained against him by Madajee Scindia after his surrender.

That the said Hastings, in the instructions given by him to Mr. David Anderson for his conduct in negotiating the treaty of peace with the Mahrattas, expressed his determination to desert the ranna of Gohud, in the following words: "you will of course be attentive to any engagements subsisting between us and other powers, in settling the

terms of peace and alliance with the Mahrattas; I except from this the ranna of Gohud." "Leave him to settle his own affairs with the Mahrattas."

That the said Anderson appears very assiduously to have sought for grounds to justify the execution of this part of his instructions, to which, however, he was at all events obliged to conform.

That even after his application for that purpose to the Mahrattas, whose testimony was much to be suspected, because it was their interest to accuse, and their determined object to destroy the said ranna, no satisfactory proof was obtained of his defection from the engagements he had entered into with the company.

That, moreover, if all the charges, which have been pretended against the ranna, and have been alleged by the said Hastings in justification of his conduct, had been well founded, and proved to be true, the subject matter of those accusations and the proofs, by which they were to be supported, were known to Colonel Muir before the conclusion of the treaty he entered into with Madajee Scindia: and therefore, whatever suspicions may have been entertained, or whatever degree of criminality may have been proved against the said ranna, previous to the said treaty, from the time he was so provided for and included in the said treaty, he was fully and justly entitled to the security stipulated for him by the company, and had a right to demand and receive the protection of the British government.

That these considerations were urged by Mr. Anderson to the said Warren Hastings, in his letter of the 24th of June, 1781, and were enforced by this additional argument, "that in point of policy, I believe it ought not to be our wish, that the Mahrattas should ever recover the fortress of Gualior; it forms an important barrier to our own possessions. In the hands of the ranna it can be of no prejudice to us; and notwithstanding the present prospect of a permanent peace betwixt us and the Mahrattas, it seems highly expedient that there should always remain some strong barrier to separate us, on this side of India, from that warlike and powerful nation."

That the said Warren Hastings was highly culpable in abandoning the said ranna to the fury of his enemies, thereby forfeiting the honour, and injuring the credit of the British nation in India, notwithstanding the said Hastings was fully convinced, and had professed, "that the most sacred observance of treaties, justice, and good faith, were necessary to the existence of the national interests in that country. And though the said Hastings has complained of the insufficiency of the laws of this kingdom to enforce this doctrine "by the punishment of persons in the possession of power, who may be impelled by the provocation of ambition, avarice, or vengeance, stronger than the restrictions of integrity and honour, to the violation of this just and wise maxim."

That the said Hastings, in thus departing from these his own principles, with a full and just sense of the guilt he would thereby incur, and in sacrificing the allies of this country "*to the provocations of ambition, avarice, or vengeance,*" in violation of the national faith and justice, did commit a gross and wilful breach of his duty, and was thereby guilty of an high crime and misdemeanour.

XV. REVENUES.

PART I.

THAT the property of the lands in Bengal, is, according to the laws and customs of that country, an inheritable property, and that it is, with few exceptions, vested in certain natives, called zemindars, or landholders, under whom other natives, called talookdars and ryots, hold certain subordinate rights of property, or occupancy, in the said lands: that the said natives are Hindoos, and that their *rights and privileges are grounded upon the possession of regular grants, a long series of family succession, and fair purchase:* that it appears that Bengal has been under the dominion of the Mogul, and subject to a Mahomedan government, for above two hundred years. That, while the Mogul government was in its vigour, the property of zemindars was *held sacred;* and that either by voluntary grant from the said Mogul, or by composition with him, the native Hindoos were left in the free, quiet, and undisturbed possession of their lands, on the single condition of paying a fixed, certain, and unalterable revenue, or quit-rent, to the Mogul government: that this revenue, or quit-rent, was called the *aussil jumma,* or *original ground-rent* of the provinces, and was not increased from the time when it was first settled in 1573, to 1740, when the regular and effective Mogul government ended: that, from that

time to 1765, invasions, usurpations, and various revolutions took place in the government of Bengal, in consequence of which the country was considerably reduced and impoverished, when the East-India company received from the present Mogul emperor, Shá Alum, a grant of the dewanny, or collection of the revenues: that, about the year 1770, the provinces of Bengal and Bahar were visited with a dreadful famine and mortality, by which at least one-third of the inhabitants perished: "that Warren Hastings, Esquire, has declared, "that he had always heard the loss of inhabitants reckoned at a third, and in many places near one-half, of the whole; and that he knew not by what means such a loss could be recruited in four or five years, and believed it impossible." That, nevertheless, the revenue was *violently kept up to its former standard*, that is, in the two years immediately preceding the appointment of the said Warren Hastings to the government of Fort William; in consequence of which *the remaining two-thirds of the inhabitants were obliged to pay for the lands now left without cultivation*; and that from the year 1770 to the year 1775, *the country had languished, and the evil continued enhancing every day:* that the said Warren Hastings, in a letter to the secret committee of the court of directors, dated 1st September, 1772, declared, "that the lands had suffered unheard-of depopulation by the famine and mortality of 1769; that the collections, *violently kept up to their former standard*, had added to the distress of the country, and threatened a general decay of the revenue, unless immediate remedies were applied to prevent it." That the said Warren Hastings has declared, "that, by intrusting the collections to the hereditary zemindars, the people would be treated with *more tenderness*, the rents more improved, and cultivation more likely to be encouraged; that *they* have a perpetual interest in the country; that *their* inheritance cannot be removed; that *they* are the proprietors; that the lands are *their* estates, and *their* inheritance; that, from a long continuance of the lands in their families, it is to be concluded they have rivetted an authority in the district, acquired an ascendency over the minds of the ryots, and ingratiated *their affections*. That, from continuing the lands under the management of those who have a natural and perpetual interest in their prosperity, solid advantages might be expected to accrue: that the zemindar would be less liable to failure or deficiencies than the farmer, from the perpetual interest which the former hath in the country, and because his inheritance cannot be removed; and it would be improbable that he should risk the loss of it by eloping from his district, which is too frequently practised by a farmer when he is hard pressed for the payment of his balances, and as frequently predetermined when he receives his farm:" that notwithstanding all the preceding declarations made by the said Warren Hastings of the loss of one-third of the inhabitants, and general decline of the country, he did, immediately after his appointment to the government, in the year 1772, make an arbitrary settlement of the revenues for five years, at a higher rate than had ever been received before, and with a progressive and accumulating increase on each of the four last years of the said settlement.

That notwithstanding the right of property and inheritance, repeatedly acknowledged by the said Warren Hastings to be in the zemindars, and other native landholders; and notwithstanding he had declared "that the security of private property is the greatest encouragement to industry, on which the wealth of every state depends;" the said Warren Hastings, nevertheless, in direct violation of those acknowledged rights and principles, did universally let the lands of Bengal *in farm* for five years; thereby destroying all the rights of private property of the zemindars; thereby delivering the management of their estates to farmers, and transferring by a most arbitrary and unjust act of power, the whole landed property of Bengal from the owners to strangers: that, to accomplish this iniquitous purpose, he, the said Warren Hastings, did put the lands of Bengal up to a pretended public auction, *and invited all persons to make proposals for farming the same*, thereby encouraging strangers to bid against the proprietors; in consequence of which not only the said proprietors were ousted of the possession and management of their estates, but a great part of the lands fell into the hands of banyans, or principal black servants of British subjects, connected with and protected by the government: and that the said Warren Hastings himself has since declared, that *by this way, the lands too generally fell into the hands of desperate or knavish adventurers:* that, before the measure herein before described was carried into execution, the said Warren Hastings, did establish certain fundamental regulations in council, to be observed in executing the same: that, among these regulations, it was specially and strictly or-

dered, that no farm should exceed the annual amount of *one* lack of rupees; and "that no peshear, banyan, or other servant, of whatever denomination, or the collector, or relation or dependant of any such servant, should be allowed to farm lands, nor directly or indirectly to hold a concern in any farm, nor to be security for any farmer;" that, in direct violation of these his own regulations, and in breach of the public trust reposed in him, and sufficiently declared by the manifest duty of his station, if it had not been expressed and enforced by any positive institution, he, the said Warren Hastings, did permit and suffer his own banyan, or principal black steward, named Cantoo Baboo, to hold farms in different Pergunnas, or districts, or to be security for farms, to the amount of thirteen lacks of rupees [130,000*l.* or upwards] per annum; and that, after enjoying the whole of those farms for two years, he was permitted by the said Warren Hastings to relinquish two of them; that on the subject of the farms held by Cantoo Baboo, the said Warren Hastings made the following declaration: "Many of his farms were taken without my knowledge, and almost all against my advice. I had no right to use compulsion, or authority; nor could I with justice exclude him, because he was my servant, from a liberty allowed to all other persons in the country. The farms which he quitted, he quitted by my advice, because I thought that he might engage himself beyond his abilities, and be involved in disputes which I did not choose to have come before me as judge of them." That the said declaration contains sundry false and contradictory assertions: that, if *almost all* the said farms were taken against his advice, it cannot be true, that *many* of them were taken without his knowledge: that, whether Cantoo Baboo had been his servant or not, the said Warren Hastings was bound by his own regulations to prevent his holding any farms to a greater amount than one lack of rupees per annum; and that the said Cantoo Baboo, being the servant of the governour-general, was excluded by the said regulations from holding any farms whatever; that if (as the directors observe) it was thought dangerous to permit a banyan of a collector to be concerned in farms, the same or stronger objections would always lie against the governour's banyan being so concerned: that the said Warren Hastings had a right and was bound by his duty to prevent his servant from holding the same: that, in advising the said Cantoo Baboo to relinquish some of the said farms, for which he was actually engaged, he has acknowledged an influence over his servant, and has used that influence for a purpose inconsistent with his duty to the India company, namely, to deprive them of the security of the said Cantoo Baboo's engagement for farms, which on trial he had found not beneficial, or not likely to continue beneficial, to himself; and that if it was improper that he, the said Warren Hastings, should be the judge of any disputes in which his servant might be involved on account of his farms, that reason ought to have obliged him to prevent his servant from being engaged in any farms whatever, or to have advised his said servant to relinquish the remainder of his farms, as well as those which the said Warren Hastings affirms he quitted by his advice: that on the subject of the said charge, the court of directors of the East-India company have come to the following resolutions: "*Resolved*, that it appears that the conduct of the late president and council of Fort William, in Bengal, in suffering Cantoo Baboo, the present governour-general's banyan, to hold farms in different pergunnas to a large amount, or to be security for such farms, contrary to the tenour and spirit of the 17th regulation of the committee of revenue at Fort William, of the 14th of May, 1772, and afterwards relinquishing that security without satisfaction made to the company, was highly improper, and has been attended with considerable loss to the company:" and that, in the whole of this transaction, the said Warren Hastings has been guilty of gross collusion with his servant, and manifest breach of trust to his employers: that, whereas it was acknowledged by the said Warren Hastings, that the country, in the years 1770 and 1771, had suffered great depopulation and decay; and, that the collections of those years, having been violently kept up to their former standard, had added to the distress of the country,—the settlement of the revenues made by him for five years, commencing the 1st May, 1772, instead of offering any abatement or relief to the inhabitants, who had survived the famine, held out to the East-India company a promise of great increase of revenue, to be exacted from the country by the means herein before described: that this settlement was not realized, but fell considerably short, even in the first of the five years, when the demand was the lightest; and that, on the whole of the five years, the real collections fell short of the settlement to the enormous amount of two millions and a half sterling,

and upwards: that such a settlement, if it had been, or could have been rigorously exacted from a country already so distressed, and from a population so impaired, that, in the belief of the said Warren Hastings, it was impossible that such loss could be recruited in four or five years, would have been in fact, what it appeared to be in form, an act of the most cruel and tyrannical oppression; but that the real use made of that unjust demand upon the natives of Bengal was to oblige them to compound privately with persons who formed the settlement, and who threatened to enforce it: that the enormous balances and remissions on that settlement arose from a general collusion between the farmers and collectors, and from a general peculation and embezzlement of the revenues, by which the East-India company was grossly imposed on, in the first instance, by a promised *increase* of revenue; and defrauded, in the second not only by the failure of that *increase*, but by the revenues falling short of what they were two years preceding the said settlement to a great amount. That the said Warren Hastings, being then at the head of the government of Bengal, was a party to all the said imposition, fraud, peculation, and embezzlement, and is principally and specially answerable for the same; and that whereas sundry proofs of the said peculation and embezzlement were brought before the court of directors, the said directors (in a letter dated 4th of March, 1778, and signed by William Devaynes and Nathaniel Smith, Esquires, now chairman and deputy chairman of the said court, and members of this house) did declare, that, "although it was rather their wish to prevent future evils, than to enter into a severe retrospection of past abuses, yet, as in some of the cases then before them, they conceived there had been *flagrant corruption*, and in others great oppressions committed on the native inhabitants, they thought it unjust to suffer the delinquents to pass wholly unpunished; and therefore they directed the governour-general and council forthwith to commence a prosecution against the persons who composed the committee of circuit, and their representatives, and against all other proper parties;" but that the prosecutions, so ordered by the court of directors in the year 1778 have never been brought to trial; and that the said Warren Hastings did, on the 23d of December, 1783, propose and carry it in council, *that orders should be given for withdrawing* the said prosecutions; declaring, that he was *clearly* of opinion that there was no ground to maintain them, and *that they would only be productive of expense to the company, and unmerited vexation to the parties*

REVENUE.

PART II.

THAT the said Warren Hastings has, on sundry occasions, declared his deliberate opinion generally against all innovations, and particularly in the collection and management of the revenues of Bengal; that "he was well aware of the expense and inconvenience, *which ever attends innovations of all kinds* on their first institution. That innovations are *always* attended with difficulties and inconveniences, and innovations in the revenue with a suspension of the collections; that the continual variations in the mode of collecting the revenue, and the continual usurpation of the rights of the people, have fixed in the minds of the ryots a rooted distrust of the ordinances of government:" that the court of directors have repeatedly declared their apprehensions "that a sudden transition from one mode to another, in the investigation and collection of their revenue, might have alarmed the inhabitants, lessened their confidence in the company's proceedings, and been attended with other evils:" that the said Warren Hastings, immediately after his appointment to the government of Fort William, in April, 1772, did abolish the office of *naib dzan*, or native collector of the revenues, then existing; that he did, at the same time, appoint a committee of the board to go on a circuit through the provinces, and to form a settlement of the revenues for five years: that he did then appoint sundry of the company's servants to have the management of the collections, viz. one in each district, under the title of *collector*; that he did then abolish the general board of revenue or council at Muxadavad for the following reasons: "that while the controlling and executive part of the revenue, and the correspondence with the collectors, was carried on by a council at Muxadavad, the members of the administration at Calcutta had no opportunity of acquiring that thorough and comprehensive knowledge, which could only result from *practical experience*: that the orders of the court of directors, which established a new system, which enjoined many new regulations and inquiries, could not properly be delegated to a subordinate council;

and it became absolutely necessary, that the business of the revenues should be conducted *under the immediate observation and direction of the board*:" that, in November, 1773, the said Warren Hastings abolished the office of *collector*, and transferred the collection and management of the revenues to several councils of revenue, commonly called *provincial councils*: that, on the 24th of October, 1774, the said Warren Hastings *earnestly offered his advice* (to the governour-general and council then newly appointed by act of parliament) *for the continuation of the said system of provincial councils in all its parts*: that the said Warren Hastings did, on the 22d of April, 1775, transmit to the directors a formal plan for the future settlement of the revenues, and did therein declare, that, "with respect to the mode of managing the collection of the revenue, and the administration of justice, none occurred to him so good as the system which was already established, of provincial councils:" that, on the 18th of January, 1776, the said Warren Hastings did transmit to the court of directors a plan for the better administration of justice: that, in this plan, the establishment of the said provincial councils was specially provided for and confirmed; and that Warren Hastings did recommend it to the directors *to obtain the sanction of parliament for a confirmation of the said plan*: that, on the 30th of April, 1776, the said Warren Hastings did transmit to the court of directors the draught or scheme of an act of parliament for the better administration of justice in the provinces, in which the said establishment of provincial councils is specially included, and special jurisdiction assigned to the said councils. That the court of directors, in a letter dated 5th February, 1777, did give the following instruction to the governour-general and council, a majority of whom, viz. Sir John Clavering, Colonel Monson, and Mr. Francis, had disapproved of the plan of provincial councils. "If you are fully convinced, that the establishment of provincial councils has not answered, nor is capable of answering, the purposes intended by such institutions, we hereby direct you to form a new plan for the collection of the revenues, and to transmit the same to us *for our consideration*." That the said Warren Hastings, in contradiction to his own sentiments repeatedly declared, and to his own advice repeatedly and deliberately given, and in defiance of the orders of the directors, to whom he transmitted no previous communication whatever of his intention to abolish the said provincial councils, did, in the beginning of the year 1781, again change the whole system of the collections of the public revenue of Bengal, as also the administration of civil and criminal justice throughout the provinces. That the said Warren Hastings, in a letter dated 5th May, 1781, advising the court of directors of the said changes, has falsely affirmed "that the plan of superintending and collecting the public revenue of the provinces, through the agency of provincial councils, had been instituted for the temporary and declared purpose of introducing another more permanent mode *by an easy and gradual change*;" that, on the contrary, the said Warren Hastings, from the year 1773 to the year 1781, has constantly and uniformly insisted on the wisdom of that institution, and on the necessity of never departing from it: that he has, in that time, repeatedly advised that the said institution should be confirmed *in perpetuity* by an act of parliament: that the said total dissolution of the provincial councils was not introduced by any easy and gradual change, nor by any gradations whatever; but was sudden and unprepared, and instantly accomplished by a single act of power: and that the said Warren Hastings, in the place of the said councils, has substituted a committee of revenue, consisting of four covenanted servants, on principles opposite to those which he had himself professed, and with exclusive powers, tending to deprive the members of the supreme council of a due knowledge of, and inspection into, the management of the territorial revenues, specially and unalienably vested by the legislature in the governour-general and council, and to vest the same solely and entirely in the said Warren Hastings. That the reasons assigned by the said Warren Hastings for constituting the said committee of revenue, are incompatible with those which he professed, when he abolished the subordinate council of revenue at Muxadavad: that he has invested the said committee, *in the fullest manner, with all the powers and authority of the governour-general and council*: that he has thereby contracted the whole power and office of the provincial councils into a small compass, and vested the same in four persons appointed by himself: that he has thereby taken the general transaction and cognizance of revenue business out of the supreme council: that the said committee are empowered to conduct the current business of the revenue department, without reference to the supreme

traordinary occurrences, claims and proposals, as may require the special orders of the board: that even the instruction to report to the board, in extraordinary cases, is nugatory and fallacious, being accompanied with limitations which make it impossible for the said board to decide on any questions whatsoever; since it is expressly provided by the said Warren Hastings, *that, if the members of the committee differ in opinion, it is not expected that every dissentient opinion should be recorded;* consequently, the supreme council, on any reference to their board can see nothing but the resolutions or reasons of the majority of the committee, without the arguments on which the dissentient opinions might be founded: and since it is also expressly provided by the said Warren Hastings, that *the determination of the majority of the committee should not therefore be stayed, unless it should be so agreed by the majority;* that is, that notwithstanding the reference to the supreme council, the measure shall be executed without waiting for their decision. That the said Warren Hastings has delivered his opinion, with many arguments to support the same, in favour of long leases of the lands in preference to *annual* settlements; that he has particularly declared, "that the farmer who holds his farm for one year only, having no interest in the next, takes what he can with the hand of rigour, which even in the execution of legal claims, is often equivalent to violence. He is under the necessity of being rigid, and *even cruel;* for what is left in arrear after the expiration of his power, is at best a doubtful debt, if ever recoverable. He will be tempted to exceed the bounds of right, and to augment his income by irregular exactions, and by racking the tenants, for which pretences will not be wanting, where the farms pass annually from one hand to another. That the discouragements which the tenants feel from being transferred every year to new landlords, are a great objection to such short leases; that they contribute to injure the cultivation, and dispeople the lands. That, on the contrary, from long farms, the farmer acquires a permanent interest in his lands: he will, for his own sake, lay out money in assisting his tenants in improving lands already cultivated, and in clearing and cultivating waste lands." That, nevertheless, the said Warren Hastings, having left it to the discretion of the committee of revenue, appointed by him in 1781, to fix the time for which the ensuing settlement should be made; and the said committee having declared, that, with respect to the period of the leases in general, *it appeared to the committee that to limit them to one year would be the best period;* he, the said Warren Hastings, approved of that limitation, in manifest contradiction to all his own arguments, professions, and declarations, concerning the fatal consequences of *annual* leases of the lands: that, in so doing, the said Warren Hastings did not hold himself bound or restrained by the orders of the court of directors, but acted upon his own discretion; and that he has, for partial and interested purposes, exercised that discretion, in particular instances, against his own general settlement for one year, by granting perpetual leases of farms and zemindaries to persons specially favoured by him; and particularly by granting a perpetual lease of the zemindary of Baharbund to his servant Cantoo Baboo on very low terms; that, in all the preceding transactions, the said Warren Hastings did act contrary to his duty, as governour of Fort William, contrary to the orders of his employers, and contrary to his own declared sense of expediency, consistency, and justice; and thereby did harass and afflict the inhabitants of the provinces with perpetual changes in the system and execution of the government placed over them, and with continued innovations and exactions against the rights of the said inhabitants; thereby destroying all security to private property, and all confidence in the good faith, principles, and justice of the British government: and that the said Warren Hastings, having substituted his own instruments to be the managers and collectors of the public revenue, in the manner herein before mentioned, did act in manifest breach and defiance of an act of the 13th of his present majesty, by which *the ordering and management and government of all the territorial revenues in the kingdoms of Bengal, Bahar, and Orissa,* were vested in the governour-general and council, without any power of delegating the said trust and duty to any other persons; and that by such unlawful delegation of the powers of the council to a subordinate board appointed by himself, he, the said Warren Hastings, did in effect unite and vest in his own person the ordering, government, and management of all the said territorial revenues: and that, for the said illegal act, he, the said Warren Hastings, is solely answerable, the same having been proposed and resolved in council, when the governour-general and council consisted but of two persons present; namely, the said Warren Hastings, and the late Edward Wheler,

Esquire; and when consequently the governour-general, by virtue of the casting voice, possessed the whole power of the government. That, in all the changes and innovations herein before described, the pretence used by the said Warren Hastings, to recommend and justify the same to the court of directors has been, that such changes and innovations would be attended with increase of revenue, or diminution of expense to the East-India company: that such pretence, if true, would not have been a justification of such acts; but that such pretence is false and groundless. That, during the administration of the said Warren Hastings, the territorial revenues have declined; that the charges of collecting the same have greatly increased; and that the said Warren Hastings, by his neglect, mismanagement, and by a direct and intended waste of the company's property, is chargeable with, and answerable for, all the said decline of revenue, and all the said increase of expense.

XVI. MISDEMEANOURS IN OUDE.

I.—That the province of Oude and its dependencies were, before their connexion with, and subordination to, the company, in a flourishing condition with regard to culture, commerce, and population, and their rulers and principal nobility maintained themselves in a state of affluence and splendour; but very shortly after the period aforesaid the prosperity both of the country and of its chiefs began sensibly and rapidly to decline; insomuch that the revenue of the said province, which on the lowest estimation had been found, in the commencement of the British influence, at upwards of three millions sterling annually (and that ample revenue raised without detriment to the country) did not in the year 1779, exceed the sum of 1,500,000*l.* and in the subsequent years did fall much short of that sum, although the rents were generally advanced, and the country grievously oppressed in order to raise it.

II.—That in the aforesaid year, 1779, the demands of the East-India company on the nabob of Oude are stated by Mr. Purling, their resident at the court of Oude, to amount to the sum of 1,360,000*l.* sterling and upwards, leaving (upon the supposition that the whole revenue should amount to the sum of 1,500,000*l.* sterling, to which it did not amount) no more than 140,000*l.* sterling for the support of the dignity of the household and family of the nabob, and for the maintenance of his government, as well as for the payment of the public debts due within the province.

III.—That by the treaty of Fyzabad a regular brigade of the company's troops to be stationed in the dominions of the nabob of Oude, was kept up at the expense of the said nabob; in addition to which a temporary brigade of the same troops was added to his establishment, together with several detached corps in the company's service, and a great part of his own native troops were put under the command of British officers.

IV.—That the expense of the company's temporary brigade increased in the same year (the year of 1779) upwards of 80,000*l.* sterling above the estimate; and the expense of the country troops under British officers, in the same period, increased upwards of 40,000*l.* sterling; and in addition to the aforesaid ruinous expenses, a large civil establishment was gradually, secretly, and without any authority from the court of directors, or record in the books of the council-general concerning the same, formed for the resident; and another under Mr. Wombwell, an agent for the company; as also several pensions and allowances, in the same secret and clandestine manner, were charged on the revenues of the said nabob for the benefit of British subject, besides large occasional gifts to persons in the company's service.

V.—That in the month of November, 1779, the said nabob did represent to Mr. Purling, the company's resident aforesaid, the distressed state of his revenues, in the following terms: "During three years past, the expense occasioned by the troops in brigade, and others commanded by European officers, has much distressed the support of my household, insomuch that the allowances made to the seraglio and children of the deceased nabob have been reduced to one-fourth of what it had been, upon which they have subsisted in a very distressed manner for two years past. The attendants, writers, and servants, &c. of my court have received no pay for two years past; and there is, at present, no part of the country that can be allotted to the payment of my father's private creditors, whose applications are daily pressing upon me. All these difficulties I have for these

three years past struggled through and found this consolation therein, that it was complying with the pleasure of the honourable company, and in the hope that the supreme council would make inquiry from impartial persons into my distressed situation; but I am now forced to a representation. From the *great increase of expense* the revenues were necessarily farmed out *at a high rate;* and deficiencies followed yearly. The country and cultivation is abandoned, and this year, in particular, from the excessive drought, deductions of many lacks" [stated by the resident, in his letter to the board of the 13th of the month following, to amount to 25 lacks, or 250,000*l.* sterling] "have been allowed the farmers, who were still left unsatisfied. I have received but just sufficient to support my absolute necessities, the revenues being deficient to amount to 15 lacks [150,000*l.* sterling] and for this reason many of the old chieftains, with their troops, and the useful attendants of the court, were forced to leave it, and there is now only a few foot and horse for the collection of my revenues; and should the zemindars be refractory, there is not left a sufficient number to reduce them to obedience." And the said nabob did therefore pray, that the assignments for the new brigade, the corps of horse, and the other detached bodies of the company's troops, might not be required from him; alleging, "that the former was not only quite useless to his government, but moreover the cause of much loss both in the revenues and customs; and that the detached bodies of troops, under their European officers, brought nothing but confusion into the affairs of his government, and were entirely their own masters."

VI.—That it appears, that the said nabob was not bound by any treaty to the maintenance, without his consent, *even of the old brigade;* the court of directors having, in their letter of the 15th December, 1775, approved of keeping the same in his service, "*provided it was done with the free consent of the soubah, and by no means without it.*" And the *new brigade*, and temporary corps, were raised on the express condition that the expense thereof should be charged on the nabob only "*for so long a time as he should require the corps for his service.*" And the court of directors express to the governour-general and council their sense of the said agreement in the following terms: "but if you intend to exert your influence, first to *induce* the vizier to acquiesce in your proposal, and afterwards *to compel him to keep the troops in his pay during your pleasure, your intents are unjust; and a correspondent conduct would reflect great dishonour on the company.*"

VII.—That in answer to the decent and humble representation aforesaid of the nabob of Oude, the allegations of which, so far as they relate to the distressed state of the nabob's finances, and his total inability to discharge the demands made on him, were confirmed by the testimony of the English resident at Oude, and which the said Hastings did not deny in the whole or in any part thereof, he, the said Warren Hastings, did, on pretence of certain political dangers, declare the relief desired to be without hesitation totally inadmissible;" and did falsely and maliciously insinuate, "that the *tone*, in which the demands of the nabob were asserted, and the season in which they were made, did give cause for the *most alarming suspicions.*" And the said Warren Hastings did, in a letter to the said nabob aforesaid, written in haughty and insolent language, and without taking any notice of the distresses of the said nabob, alleged and verified as before recited, "require and insist upon your [the nabob's] granting tuncaws [assignments] for the full amount of their [the company's] demands upon you for the current year, and on your reserving funds sufficient to answer them, *even should the deficiencies of your revenues compel you to leave your own troops unprovided for, or to disband a part of them to enable you to effect it.*"

VIII.—That in a letter, written at the same time to the resident Purling, and intended for his directions in enforcing on the nabob the unjust demands aforesaid, the said Warren Hastings hath asserted, in direct contradiction to the treaties subsisting between the said nabob and the company, "that he [the nabob] stands engaged to our government to maintain the English armies, which, at his own request, have been formed for the protection of his dominions; and *that it is our part, and not his, to judge and determine in what manner and at what time these shall be reduced and withdrawn.*" And in a minute of consultation, when the aforesaid measure was proposed by the said Hastings to the supreme council, he did affirm and maintain, that the troops aforesaid "had now no *separate* or distinct existence from ours, and may be properly said to consist of our *whole* mili-

tary establishment, with the exception only of our European infantry; and that they could not be withdrawn without imposing on the company *the additional burthen of them*, or disbanding nine battalions of disciplined sepoys, and three regiments of horse."

IX.—That in the minute of consultation aforesaid, he, the said Warren Hastings, hath further in justification of the violent and arbitrary proceedings aforesaid, asserted, "that the arrangement of measures between the British government and their allies, the native powers of India, must, in case of disagreement about the necessity thereof, *be decided by the strongest*;" and hath thereby advanced a dangerous and most indecently-expressed position, subversive of the rights of allies, and tending to breed war and confusion, instead of cordiality and co-operation amongst them, and to destroy all confidence of the princes of India in the faith and justice of the English nation; and the said Hastings, having further, in the minute aforesaid, presumed to threaten to "bring to punishment, if my influence [his the said Hastings's influence] can produce that effect, *those incendiaries*, who have endeavoured to make themselves the instruments of division between us," hath, as far as in him lay, obstructed the performance of one of the most essential duties of a prince, engaged in an unequal alliance with a presiding state—that of representing the grievances of his subjects to that more powerful state, by whose acts they suffer; leaving thereby the governing power in total ignorance of the effects of its own measures, and to the oppressed people no other choice than the alternative of an unqualified submission, or a resistance productive of consequences more fatal.

X.—That all relief being denied to the nabob, in the manner and on the grounds aforesaid, the demands of the company on the said nabob in the year following, that is to say, in the year 1780, did amount to the enormous sum of 1,400,000*l.* sterling, and the distress of the province did rapidly increase.

XI.—That the nabob, on the 24th of February, of the same year, did again write to the governour-general, the said Warren Hastings, a letter, in which he expressed his constant friendship to the company, and his submission and obedience to their orders; and asserting, that he had not troubled them with any of his difficulties, trusting they would learn them from other quarters, and that he should be relieved by their friendship: "but (he says) when the *knife had penetrated to the bone*, and I was surrounded with such heavy distresses, that I could no longer live in expectations, I then wrote an account of my difficulties. The answer I have received to it is such, that it has given me inexpressible grief and affliction. I never had the least idea or expectation from you and the council, that you would have given your orders in *so afflicting a manner in which you never before wrote, and I could never have imagined*. I have delivered up all my private papers to him [the resident] that after examining my receipts and expenses, he may take whatever remains. That as I know it to be my duty to satisfy you [the company and council] I have not failed to obey in any instance; but requested of him that it might be done so as not to distress me in my *necessary* expenses. There being no other funds but those for the expenses of my mutseddies, [clerks and accountants] household expenses, and servants, &c. he demanded these in such a manner, that being remediless, I was obliged to comply with what he required. He has accordingly stopped the *pensions of my old servants for* 30 *years, whether sepoys* [*soldiers*] *mutseddies* [*secretaries and accountants*] *or household servants, and the expenses of my family and kitchen, together with the jaghires of my grandmother, mother, and aunts, and of my brothers and dependants, which were for their support*."

XII.—That in answer to the letter aforesaid, the resident received from the said Warren Hastings and council an order to persevere in the demand to its fullest extent, that is to say, to the amount of 1,400,000*l.* sterling.

XIII.—That on the 15th of May, the nabob replied, complaining in an humble and suppliant manner of his distressed situation, that he had at first opposed the assigning to the use of the company the estates of his mother, of his grandmother, of one of his uncles, and of the sons of another; but that, in obedience to the injunctions of the gentlemen of the council, it had been done, to the amount, on the whole, of 80,000*l.* sterling a year, or thereabouts; that whatever effects were in the country, with even his table, his animals, and the salaries of his servants, were granted in assignments; that besides

these, if they were resolved again to compel him to give up the estates of his parents and relations, which were granted them for their maintenance, they were at the company's disposal; saying, "If the council have directed you to attach them, do it; in the country no further sources remain. I have no means; for I have not a subsistence. How long shall I dwell upon my misfortunes?"

XIV.—That the truth of the said remonstrances was not disputed, nor the tone in which they were written complained of, the same being submissive, and even abject, though the cause (his distresses) was by the said Hastings, in a great degree and in terms the most offensive, attributed to the nabob himself; but no relief was given, and the same unwarrantable establishments, maintained at the same ruinous expense, were kept up.

XV.—That the said Warren Hastings having considered as incendiaries those who advised the remonstrances aforesaid, and to prevent the same in future, having denounced vengeance on those concerned therein, did, for the purpose of keeping in his power all representations of the state of the court and country aforesaid, and to subject both the one and the other to his own arbitrary will, and to draw to himself and to his creatures the management of the nabob's revenues, in defiance of the orders of the court of directors, a second time recall Mr. Bristow, the company's resident, from the court of Oude; having once before recalled him, as the said directors express themselves, "without the shadow of a charge being exhibited against him;" and having, on the occasion and time now stated produced no specific charge against the said resident; and he, the said Hastings, did appoint Nathaniel Middleton, Esquire, to succeed him, it being his declared principle, that he must have a person of *his own* confidence in that situation.

XVI.—That the said Warren Hastings, after he had refused all relief to the distresses of the nabob, in the manner aforesaid, and had described those who advised the representation of the grievances of Oude as *incendiaries*, did himself, in a minute of the 21st May, 1781, describe that province "as fallen into a state of great disorder and confusion, and its resources in an extraordinary degree diminished;" and did state, that his presence in the said province was requested by the nabob; and that unless some effectual measures were taken for his relief, he [the nabob] must be under the necessity of leaving his country, and coming down to Calcutta, to represent the situation of his government. And Mr. Wheler did declare, that the governour-general's representation of the state of that province "was but too well founded; and was convinced, that it would require his utmost abilities and powers, applied and exercised on the spot, to restore it to its former good order and affluence."

XVII.—That the said Warren Hastings, in consequence of the minute aforesaid, did grant to himself, and did procure the consent of his only colleague, Edward Wheler, Esquire, to a commission or delegation, with powers "to assist the nabob vizier in forming such regulations as may be necessary for the peace and good order of his government, the improvement of his revenue, and the adjustment of the mutual concerns subsisting between him and the company." And in the said commission or delegation, he, the said Warren Hastings, did cause to be inserted certain powers and provisions of a new and dangerous nature; (that is to say,) reciting the business before mentioned, he did convey to himself "such authority to enforce the same, *as the governour-general and council might or could exercise on occasions, in which they could be warranted to exercise the same;* and to form and conclude such several engagements or treaties with the nabob vizier, the government of Barar, and with any chiefs or powers of Hindostan, as *he* should judge expedient and necessary." Towards the conclusion of the act or instrument aforesaid are the words following; viz. "it is hereby declared, that all such acts, and all such engagements or treaties aforesaid, shall be binding on the governour-general and council in the same manner, and *as effectually as if they had been done and passed by the specific and immediate concurrence and actual junction of the governour-general and council, in council assembled.*" And the said powers were, by the said Warren Hastings, given by himself and the said Wheler, under the seal of the company, on the 3d July, 1781.

XVIII.—That the said commission, delegating to him, the said Warren Hastings, the whole functions of the council, is destructive to the constitution thereof; and is contrary to the company's standing orders; and is illegal.

XIX.—That in virtue of those powers, and the illegal delegation aforesaid, the said Warren Hastings, after he had finished his business at Benares, did procure a meeting with the nabob of Oude, at a place called Chunar, upon the confines of the country of Benares, and did there enter into a treaty, or pretended treaty with the said nabob; one part of which the said Warren Hastings did pretend was drawn up from a series of requisitions presented to him by the nabob, but which requisitions, or any copy of thereof, or of any other material document relative thereto, he did not at the time transmit to the presidency; the said Warren Hastings informing Mr. Wheler that the resident, Middleton, had taken the *authentic* papers relative to this transaction with him to Lucknow; and it does not appear that the said Warren Hastings did ever reclaim the said papers in order to record them at the presidency, to be transmitted to the court of directors, as it was his duty to do.

XX.—That the purport of certain articles of the said treaty on the part of the company, was, that in consideration of the nabob's inability (which inability the preamble of the treaty asserts to have been "repeatedly and urgently represented") to support the expenses of the temporary brigade, and of three regiments of cavalry, and also of the British officers, with their battalions, and of *other* gentlemen, who were then paid by him, the several corps aforesaid, and the other gentlemen (with the exception of the resident's office, then *on the nabob's list*, and a regiment of sepoys for the resident's guard) should, after a term of two and a half months, be no longer at his [the nabob's] charge. "The true meaning of this being, that no more troops than one brigade, and the pay and allowances of a regiment of sepoys," (as aforesaid to the resident) amounting in the whole to 342,000*l.* a year, should be paid by the nabob. And that *no officers, troops, or others, should be put upon the nabob's establishment*, exclusive of those in the said treaty stipulated.

XXI.—That the said Warren Hastings did defend and justify the said articles, in which the troops aforesaid were to be removed from the nabob's establishment, by declaring as follows: "that the actual disbursements to those troops had fallen upon *our own funds*, and that *we* support a body of troops, established *solely* for the defence of the nabob's possessions, *at our own expense*. It is true, we charge the nabob with this expense: but the large balance already due from him shows too justly the little prospect there was of disengaging ourselves *from a burthen*, which was daily adding to *our* distresses, and must soon become *insupportable*, although it were granted that the nabob's debt, then suffered to accumulate, *might at some future period be liquidated*; and that this measure would substantially effect an instant relief to the pecuniary distresses of the company."

XXII.—That Nathaniel Middleton, the resident, did also declare, that he would at all times testify, "that upon the plan of the foregoing years the receipts from the nabob were only a *deception*, and *not an advantage*, but *an injury* to the company;" and "that a remission to the nabob of this *insufferable burthen* was *a profit* to the company." And the said Hastings did assert, that the force of the company was not be lessened by withdrawing the temporary troops; although (when it suited the purpose of the said Hastings, in denying just relief to the distresses of the said nabob of Oude) he had not scrupled to assert the direct contrary of the positions by him maintained in justification of the treaty of Chunar, having in his minute aforesaid, of the 15th of December, 1779, asserted, "that these troops" [the troops maintained by the nabob of Oude] "had no separate or distinct existence, and may be properly said to consist of our whole military establishment, with the exception only of our European infantry; and that they could not be *withdrawn, without imposing on the company the additional burthen of their expense*, or disbanding nine battalions of disciplined sepoys, and three regiments of horse."

XXIII.—That he, the said Warren Hastings, in justification of his agreement to withdraw the troops aforesaid from the territories and pay of the nabob of Oude, did further declare, "that he had been too much accustomed to the tales of hostile preparation, and impending invasions, against all the evidence of political probability, to regard them as any other than phantoms, raised for the purpose of perpetuating or multiplying commands;" and he did trust "all ideas of danger from the neighbouring powers were altogether visionary; and that, even if they had been better founded, this mode of anticipating possible evils would be more mischievous than any thing they had reason to apprehend," and

that the internal state of the nabob's dominions did not require the continuance of the said troops; and that the nabob, "*whose concern it was, and not ours*," did affirm the same, notwithstanding he, the said Hastings had before, in answer to the humble supplications of the nabob, asserted, that "*it was our part, and not his*, to judge and determine in what manner, and at what time, they should be reduced or withdrawn."

XXIV.—That the said Warren Hastings, in support of his measure of withdrawing the said brigade, and other troops, did also represent, that "the remote stations of those troops, placing the commanding officers beyond the notice and control of the board afforded too much opportunity and temptation for unwarrantable emoluments, and excited the *contagion of peculation and rapacity throughout the whole army*; and as an instance thereof, that a court martial, composed of officers of rank and respectable characters, unanimously and honourably, 'most honourably,' acquitted an officer upon an acknowledged fact, which in times of stricter discipline would have been deemed a crime deserving the severest punishment."

XXV.—That the said Warren Hastings having, in the letter aforesaid, contradicted all the grounds and reasons by him assigned for keeping up the aforesaid establishment, and having declared his own conviction, that the whole was a fallacy and imposition, and a detriment to the company instead of a benefit, circumstances (if they are true) which he might and ought to have well known, was guilty of a high crime and misdemeanour in carrying on the imposture and delusion aforesaid, and in continuing an insupportable burthen and grievance upon the nabob for several years, without attending to his repeated supplications to be relieved therefrom, to the utter ruin of his country, and to the destruction of the discipline of the British troops, by diffusing among them a general spirit of peculation; and the said Hastings hath committed a grievous offence in upholding the same pernicious system, until, by his own confession and declaration, in his minute of the 21st of May, 1781, "the evils had *grown* to so great an height, that exertions will be required more powerful than can be made through the delegated authority of the servants of the company now in the province; and that he was far from sanguine in his expectations, that *even his own endeavours would be attended with much success*."

XXVI.—That at the time of making the said treaty, and at the time when, under colour of the distress of the nabob of Oude, and the failure of all other means for his relief, he the said Hastings broke the company's faith with the parents of the nabob, and first encouraged, and afterwards compelled, him to despoil them of their landed estates, money, jewels, and household goods, and while the said nabob continued heavily in debt to the company, he, the said Warren Hastings, did, "*without hesitation*," accept of and receive from the nabob of Oude, and his ministers, (who are notoriously known to be not only under his influence, but under his absolute command) a bribe, or unlawful gift, or present, of one hundred thousand pounds sterling, and upwards: that even if the said pretended gift could be supposed to be voluntary, it was contrary to the express provision of the regulating act of the 13th year of his majesty's reign, prohibiting the receipt of all presents upon any pretence whatsoever, and contrary to his own sense of the true intent and meaning of the said act, declared upon a similar, but not so strong a case; that is, where the service done, and the present offered in return for it, had taken place before the promulgation of the above laws in India; on that occasion he declared, "that the exclusion by an act of parliament *admitted no abatement or evasion*, wherever its authority extended."

XXVII.—That the said Warren Hastings, confiding in an interest, which he supposed himself to have formed in the East-India house, did endeavour to prevail on the court of directors to violate the said act, and to suffer him to appropriate the money so illegally accepted by him to his own profit as a reward for his services.

XXVIII.—That the said Warren Hastings has since declared to the court of directors, that when *fortune* threw *a sum in his way* (meaning the sum of money above mentioned) *of a magnitude which could not be concealed, he chose to apprize his employers of it*; thereby confessing, that, but for the magnitude of the same rendering it difficult to be concealed, he never would have discovered it to them. And the said unlawful present being received at the time when, for reasons

directly contradictory to all his former recorded declarations, he did agree to remove the aforesaid troops from the nabob's dominions, and to recall the pensioners aforesaid, it must be presumed that he did not agree to give the relief (which he had before so obstinately refused) upon the grounds and motives of justice, policy, or humanity, but in consideration of the sum of money aforesaid, which in a time of such extreme distress in the nabob's affairs could not be rationally given, except for those and other concessions stipulated for in the said treaty, but which had on former occasions been refused.

XXIX.—That notwithstanding his, the said Warren Hastings's, receipt of the present of 100,000*l.* as aforesaid, he did violate every one of the stipulations in the said treaty contained; and particularly he did continue in the country, and in the service of the nabob of Oude, those troops, which he had so recently stipulated to withdraw from his country and to take from his establishment; for, upon the 24th of December following, he did order the temporary brigade, making 10 battalions of 500 men each, to be again put on the vizier's list; although he had recently informed the court of directors, through Edward Wheler, Esquire, that any benefit to be derived from the nabob's paying that brigade was a *fallacy and a deception*, and that the same was a charge upon the company, and not an *alleviation of its distresses*, as well as an *insupportable burthen* to the nabob: thus having, within a short space of time, twice contradicted himself, both in delaration and in conduct.

XXX.—That this measure in direct violation of a treaty of not three months duration, was so injudicious, that, in the opinion of the assistant resident, Johnson, "nothing less than blows could effect it:" he the said resident further adding, "that the nabob was not even able to pay off the arrears still due to it [the new brigade;] and that the troops being *all* in arrears, and no possibility of present payment, so large a body assembled here [viz. at Lucknow] without any means to check and control them, nothing but disorder could follow. As one proof that the nabob is as badly off for funds as we are, I may inform you, that his cavalry rose this day upon him, and and went all armed to the palace, to demand from 13 to 18 months arrears, and were with great difficulty persuaded to retire, which was probably more effected by a body of troops getting under arms to go against them, than any other consideration." But the letter of Warren Hastings, Esquire, of the 24th of December, giving the above orders for the infraction of the treaty, and to which the letter, from whence the foregoing extracts are taken, is an answer, doth not appear, any otherwise than as the same is recited in the answer.

XXXI.—That, notwithstanding the disorders and deficiencies in the revenue aforesaid had continued and increased, and that three very large balances had accumulated, the said Warren Hastings did cause the treasury accounts at Calcutta to be examined and scrutinized, and an account of another arrear, composed of various articles, pretended to have accumulated during seven years previous to the year 1799, (the articles composing which, if they had been just, ought to have been charged at the times they severally became due) was sent to the resident, and payment thereof demanded, to the amount of 260,000*l.* sterling; which unexpected demand, in so distressed a situation, did not a little embarrass the nabob. But whilst he and his ministers were examining into the said unexpected demand, another, and fifth balance, made up of similar forgotten articles, was demanded, to the amount of 140,000*l.* sterling more. Which said two last demands did so terrify and confound the nabob and his ministers, that they declared that the resident "might at once take the country, since justice was out of the question."

XXXII.—That the said Hastings, in order to add to the confusion, perplexity, and distress of the nabob's affairs, did send to his court (in which he had already a resident and an assistant resident) two secret agents, Major Palmer and Major Davy, and did instruct Major Palmer to make a variety of new claims, one of a loan to the company of 600,000*l.* sterling, although he well knew the nabob was himself heavily in arrear to the company, and was utterly unable to discharge the same, as well as in arrear to his own troops, and to many individuals, and that he borrowed (when he could at all borrow) at an interest of near thirty per cent. To this demand was added a new bribe, or unlawful present to himself, to the amount of 100,000*l.* sterling, which he did not refuse as unlawful, and of evil example, but as *indelicate* in the nabob's present situation; and did, as if the same was his own property,

presume to dispose of it, and to desire the transfer of it, as of his own bounty, to the company his masters. To this second demand he, the said Hastings, added a third demand of 120,000*l.* sterling, for four additional regiments on the nabob's list, after he had solemnly engaged to take off the ten, with which it had been burthened; the whole of the claims, through his private agent aforesaid, making the sum of 820,000*l.* sterling.

XXXIII.—That the demands, claims, &c. made by the said Warren Hastings upon the government of Oude, in that year, amounted to the enormous sum of 2,530,000*l.* sterling, and being joined to the arrears to troops, and some internal failures, amounting to 255,000*l.* sterling more, the whole charge arose to 2,785,000*l.* sterling; which was considerably more than double the net produce of the nabob's revenue, the same only amounting to 1,450,000*l.* "nominal revenue, never completely realized."

XXXIV.—That, towards providing for these extravagant demands, he, the said Warren Hastings, did direct and authorize another breach of the public faith, given in the treaty of Chunar. For, whereas, by the second article of the treaty aforesaid, it was left to the nabob's discretion, whether or not he should resume the landed estates, called jaghires, within his dominions; and notwithstanding the said Hastings, in defence of the said article, did declare that the nabob should be left to the exercise of his own authority and pleasure respecting them, yet he the said Hastings did authorize a violent compulsion to be used toward the said nabob for accomplishing an universal confiscation of that species of landed property; and in so doing he did also compel the nabob to break his faith with all the landholders of that description, not only in violating the assurance of his own original grants, but his assurance recently given, when, being pressed by the company, he [the nabob] had made a temporary seizure of the profits of the lands aforesaid, in the manner of a compulsory loan, for the re-payment of which he gave his bonds and obligations; and although he had at the same time solemnly pledged his faith, that he never would again resort to the like oppressive measure, yet he, the said Warren Hastings, did cause him to be compelled to confiscate the estates of at least sixty-seven of the principal persons of his country, comprehending therein his own nearest relations, and the ancient friends and dependants of his family; the annual value of the said estates thus confiscated amounting to 435,000*l.* sterling, or thereabouts, upon an old valuation, but stated by the resident Middleton as being found to yield considerably more.

XXXV.—That the violent and unjust measure aforesaid, subversive of property, utterly destructive of several ancient and considerable families, and most dishonourable to the British government, did produce an universal discontent, and the greatest confusion throughout the whole country; the said confiscated lands being on this occasion put to rackrents, and the people grievously oppressed. And to prevent a possibility of redress, at least for a considerable time, the said confiscated estates were mortgaged (it appearing otherwise impracticable to make an approach towards satisfying the exorbitant demands of the said Hastings) for, a great sum to certain usurious bankers or money-dealers at Benares.

XXXVI.—That besides these enormous demands, which were in part made for the support of several corps of troops under British officers, which, by the treaty of Chunar, ought to have been removed, very large extra charges, not belonging to the military list of the said nabob, and several civil charges and pensions were continued, and others newly put on, since the treaty of Chunar; namely, an allowance to Sir Eyre Coote of 15,554 rupees per month, (upwards of 18,664*l.* sterling a year) and an allowance to Trevor Wheler, Esquire, of 5,000 rupees per month (or 6,000*l.* sterling, and upwards a year,) and the whole of the settled charges, not of a military nature, to British subjects, amounting to little less than 140,000*l.* yearly; and if other allowances, not included in the estimate, were added, they would greatly exceed that sum, besides much more, which may justly be suspected to have been paid, no part whereof had at that time been brought forward to any public account.

XXXVII.—That the commander of one of these corps, of whose burthen the said nabob did complain, was Lieutenant-Colonel Alexander Hannay, who did farm the revenues of certain districts, called Baraitch and Gorachpore, which the said Hastings, in the ninth article of his instructions to Mr. Bristow, did estimate at 23 lacks of rupees, or 230,000*l.* per annum; but under his, the said Hannay's, management, the collections did

very greatly decline; complaints were made that the countries aforesaid were harrassed and oppressed, and the same did fall into confusion, and, at last, the inhabitants broke out into a general rebellion.

XXXVIII.—That the far greater part of the said heavy list was authorized or ordered by him, the said Warren Hastings for the purpose of extending his own corrupt influence. For it doth appear, that at the time when he did pretend, in conformity to the treaty of Chunar aforesaid, to remove the company's servants, "*civil* and military, from the court and service of the vizier," he did assert that he thereby did "diminish his *own influence*, as well as that of his colleagues, by narrowing the line of *patronage*;" which proves that the offices, pensions, and other emoluments aforesaid, in Oude, were *his* patronage, as his patronage could not be diminished by taking away the said offices, &c. unless the same had been substantially of his gift; and he did, at the time of the pretended reformation aforesaid, express both his knowledge of the existence of the said excessive and abusive establishments, and his sense of his duty in taking them away; for in agreeing to the article in the treaty of Chunar for abolishing the said establishments he did declare himself "actuated solely by motives of *justice* to the nabob, and a regard to the *honour of our national character*;" and, according to his own representation, the said servants of the company, civil and military, "by their numbers, their influence, and the *enormous amount* of their salaries, pensions, and emoluments, were an intolerable burthen on the revenues and authority of the vizier; and exposed us to the *envy and resentment of the whole country*. by excluding the native servants and adherents of the vizier from the reward of their services and attachment."

XXXIX.—That the revenue of the country being anticipated, mortgaged, and dilapidated by the counsel, concurrence, connivance, and influence, and often by the direct order of the said Warren Hastings, the whole civil government, magistracy, and administration of justice, gradually declined, and at length totally ceased through the whole of the vast provinces, which compose the territory of Oude; and no power was visible therein, but that of the farmers of the revenue, attended by bodies of troops to enforce the collections, insomuch that robberies, assassinations, and acts of every description of outrage and violence were perpetrated with impunity; and even in the capital city of Lucknow, the seat of the sovereign power, there was no court of justice whatever to take cognizance of such offences.

XL.—That the said Warren Hastings, when he did interfere in the government of Oude, was obliged by his duty to interfere for the good purposes of government, and not merely for the purpose of extorting money therefrom, and enriching his own dependants, which latter purpose alone he did effect in the manner before mentioned, but not one of the former. For the said Hastings, having procured the extraordinary powers given by and to himself by his delegation of the 3d of July, 1781, did declare the same to be for the purpose, among many others, "of assisting the nabob vizier in forming such regulations as may be necessary for the peace and good order of his government and the improvement of his revenue." And in consequence of the said powers the said Warren Hastings did, in the treaty of Chunar, obtain an article from the nabob, by which the said nabob did promise to attend to his advice in the reformation of his civil administration; and he did give certain instructions to the resident, Middleton, to which he did require him to yield *the most implicit obedience*; and did in one article thereof direct him to urge the nabob to endeavour gradually, if it could not be done at once, to establish courts of adawlet, [justice] and that the darogas [chief criminal magistrates] moulabies [consulting or assistant lawyers] and other officers should be selected by the ministers, with his, the resident's, concurrence: and afterwards, in his instructions to the resident Bristow, desiring him to pursue the same object, he declared his opinion, "that the want of such courts, and the extreme licentiousness occasioned thereby, is one of the most disreputable defects in his highness the nabob's government. And that while they do exist, every man knows the hazard which he incurs in lending his money." But he did give him, the said resident, no positive instruction concerning the same, supposing the establishment of such courts a matter of difficulty; and did therefore give him a latitude in his proceedings therein.

XLI.—That the said resident Bristow did, however, in conformity to the said instructions, at last given with such latitude, endeavour to prevail on the said minister gradually to introduce courts of justice for the cognizance of crimes, by beginning to establish a

criminal court under a native judge, to judge according to the Mahomedan law in the city Lucknow. But Hyder Beg Khân, a minister of the said Warren Hastings's nomination, and solely dependent upon him did elude and obstruct, and in the end totally defeat, the establishment of the same.

XLII.—That the obstruction aforesaid, and the evil consequences thereof, were duly represented to the said Hastings: and though the said Hastings had made it the fourth article of a criminal charge against the resident Middleton, "that he did not report to the governour-general, or to the board, the progress which he had made from time to time in his endeavours to comply with his instructions; and that, if he met with any impediments in the execution of them, he had omitted to state those impediments, and to apply for fresh orders upon them;" yet he, the said Hastings, did give no manner of support to the resident Bristow against the said Hyder Beg Khân, and did not even answer several of his letters, the said Bristow's letters, stating the said impediments, or take any notice of his remonstrances; but did at length revoke his own instructions, declaring that he, the said resident, should not presume to act upon the same; and yet did not furnish him with any others, upon which he might act, but did uphold the said Hyder Beg Khân in the obstruction by him given to the performance of the first and and fundamental duty of all government; namely, the administration of justice, and protection of the lives and property of the subject against wrong and violence.

XLIII.—That the said Hastings did afterwards proceed to the length of criminating the resident Bristow aforesaid for his endeavours to establish the said necessary court, as an invasion of the rights of the nabob's government; when, if the nabob in his own proper person and character, and not the aforesaid Hyder Beg (who was a creature of the said Hastings) had opposed the re-establishment of justice in the said country, it was the duty of the said Hastings to have pressed the same upon him by every exertion of his influence. And the said Warren Hastings, in his pretended attention to the nabob's authority, when exercised by his the said Hastings's minister to prevent the establishment of courts of justice for the protection of life and property, at the same time that he did not hesitate, in the case of the confiscation of the jaghires, and the proceedings against the mother and grandmother of the nabob, totally to supersede his authority, and to force his inclinations in acts, which overturned all the laws of property, and offered violence to all the sentiments of natural affection and duty; and accusing at the same time his instruments for not going to the utmost lengths in the execution of his said orders, is guilty of an high crime and misdemeanour.

XLIV.—That the said Hastings did highly aggravate his offence in discountenancing and discouraging the re-establishment of magistracy, law, and order, in the country of Oude, inasmuch as he did, in the eighth article of his instructions to the resident order him to exercise powers, which ought to have been exercised by lawful magistrates, and in a manner agreeable to law. And in the said article he did state the prevalence of rebellion in the said country of Oude, as if rebellion could exist in a country, in which there was no magistracy, and no protection for life or property, and in which the native authority had no force whatever; and in which he himself states the exercise of British authority to be an absolute usurpation: and he did accordingly direct a rigorous prosecution against the offence of rebellion under such circumstances, but "with a fair and impartial inquiry," when he did not permit the establishment of those courts of justice and magistracy, by which alone rebellion could be prevented, or a fair and impartial inquiry relative to the same could be had. And particularly he did instruct the said resident to obtain the nabob's order for employing some sure means for apprehending certain zemindars, and particularly three, in the instructions named, whom he, the said Hastings, did cause to be apprehended upon what he calls good information, founded upon some facts, to which he asserts he has the testimony of several witnesses, "that they had the destruction of Colonel Hannay and the officers under his command, as their immediate object, and ultimately the extirpation of the English influence and power throughout all the nabob's dominions;" and that they did still persevere in their rebellious conduct without deviation, "though the nabob's and not our government, was then the object of it." And he did direct the said resident, if it should appear, "*on a fair and regular inquiry*, that their conduct towards the nabob had been such as had been reported to be, to insist upon the nabob's punishing them with *death*; and to treat with the same

rigour every zemindar, and every subject, who shall be the leader in a rebellion against his authority."

XLV.—That the crime of the said Hastings, in his procedure aforesaid, was further highly aggravated by his having received information of several striking circumstances, which strongly indicated the necessity of a regular magistracy and a legal judicature, from the total failure of justice, affecting not only the subjects at large, but even the reigning family itself; as also of the causes why no legal magistracy could exist, and why the princes of the reigning family were not only exposed to the attacks of assassins, but even to a want of the protection, which might be had from their servants and attendants, who were driven from their masters for want of that maintenance, which the princes their masters could not procure, even for themselves. And the circumstances aforesaid were detailed to him the said Hastings by the resident Bristow, in a letter from Lucknow, dated the 29th January, 1784, to the governour-general the said Warren Hastings, and the council of Bengal, in the terms following:

"The frequent robberies and murders, perpetrated in his excellency's, the vizier's dominions, have been too often the subject of my representations to your honourable board. From the total want of police, hardly a day elapses but I am informed of some tragical event, whereof the bare recital is shocking to humanity. About two months since an attempt was made to assassinate Rajah Ticket Roy, the acting minister's confidential agent; but he happily escaped unhurt. Nabob Behadre, *his highness's brother*, has not been so fortunate, as will appear from translations of two of his letters to me, No. 1, which I have the honour to enclose for your information. Although my feelings are sensibly hurt, and my compassion strongly excited by *the disgraceful and miserable state of poverty, to which his excellency's brothers are reduced*, yet, situated as I am, it is not in my power to interfere with effect. My efforts on a former ocrasion failed of success, *and my interposition now would only excite the resentment of the minister towards the unhappy sufferers, in consequence of their application to me, from whom* ALONE, *however, they hope for relief from their present distress*, which, their near connexion with the vizier considered, is both shameful and unprecedented. That no regular courts of justice have been established in this country is particularly pointed at in my instructions, as the most disreputable defect in his highness's government: yet the minister seems determined on abolishing even the shadow of so necessary an institution. The office of chief justice, as held by Molovy Morobine, was ever nugatory, but now it is sunk into the lowest contempt. The original establishment, inadequate as it was, is mouldering away, and the officers now attached to it are literally starving, as no part of their allowance has been paid for above six months past. He himself has proposed to resign his appointment, being every way precluded from a possibility of exercising the duties of it."

XLVI.—That it appears by the said letter, and the papers therewith transmitted, as well as other documents in the said correspondence, that in consequence of the distress brought upon the nabob's finances, certain of the princes his brethren, the children of Shuja ul Dowla, the late sovereign of the country, were put upon pensions unsuitable to their birth and rank, and by the mismanagement of the minister aforesaid (appointed by the said Warren Hastings) for two years together no considerable part of the said inadequate pension was paid; and not being able to maintain the attendants necessary for their protection in a city, in which all magistracy and justice was abolished, they were not only liable to suffer the greatest extremities of penury, but their lives were exposed to the attempts of assassins. The condition of one of the said princes, called the Nabob Bahadur, is by himself strongly expressed in three letters to the said resident Bristow, the first dated the 28th of December, 1783; the second, the 7th of January, 1784; and the third, the 15th of January, 1784, which letters were duly transmitted in the despatch of the 29th of the same month to Warren Hastings, Esquire, and are as follow:

"Your own servant carried you the account of what he himself was an eye-witness to, after the affair of last night. These are the particulars:—about midnight my aunt received twelve wounds from a ruffian, of which she died. I also received six successive stabs, which alarmed the people of the house, who set up a shouting; whereupon the assassin run off. Besides being *without food, or the means of providing any*, this misfortune has befallen me. *I am desirous of sending the coffin to your door*. It is your duty, both for the sake of God and of Christ, to execute justice, and to inquire what harm I have done to

the murderer sufficient to deserve assassination, or even injury. *You now stand in the place of his excellency the vizier.* I request you will do me justice. What more can I say?

P. S. "I am also desirous to show you my wounds."

From the same, 29th of January, 1784.

"You may have been duly informed of all the circumstances relative both to the murder of the innocent, and of my being wounded, as well by my former letter, as by the messenger, whom you sent to inquire into the state of my health; and I have every reason to hope from your known kindness, that you will not be deficient in seeking out the assassin. *I am at this moment overwhelmed in misfortune. Whilst the blood is flowing from my wounds, neither I, nor my children, nor my servants, have wherewithal to procure subsistence;* nor have I it in my power either to purchase remedies, or to reward the physician—*'tis for the sake of God alone that he attends me.* Thus loaded with calamity upon calamity, I am unable to support life, for I find no relief from any affliction either day or night. Do you now stand in the place of my father; grant me fresh life by speedy acts of benevolence.

"For these two last years his excellency established a pension for me of twenty thousand rupees; but I never received the full amount of it, either last year or the year before. Should it, however, be paid me, though inadequate to my desires, I shall still be enabled to support myself. From the beginning of this year to the present time I have not received a farthing, nor do I expect any, though, if you afford protection to the oppressed, all my wishes will be accomplished. I was desirous of waiting on you with my family, that you might be an eye-witness to their condition; but I was advised not to stir out on account of my wounds. What more can I say?"

The following extracts are made from the third letter from the same prince; dated January 15th, 1784.

"The particulars of the late and unforeseen misfortune, with which I have been overwhelmed, are not unknown unto you; that the innocent blood of my aunt, *the prop and ruler of my family,* was shed, and in the same manner I too was wounded. Until now I feel the pain and affliction of my wounds; and *no person has regarded my solicitations for redress, sought after the assassin, and brought him to condign punishment, yourself excepted.*" "In like manner, as the honourable governour-general has adopted my brother Saadut Alla Cawn for his son, and relieved him from the vexation, affliction, and dependence of this place, would it be extraordinary, that you also should, in your bounty and favour, consent to adopt me, who do not possess the necessaries of life, and permit me to attend you to whatever part of the world you may travel, whereby I shall at all times derive honour and advantage? Formerly, us three brothers, Saadut Ally, Myrza Jungly and I, the poor and oppressed were, in the presence of our blessed father, treated alike. Now the ministers of this government put me upon a footing with our younger brothers, who have lately left the zenana, and whose expenses are small. On this scale which is in every respect insufficient for my maintenance, they pay *the pitiful allowance only when it is their pleasure to do it.* My situation has for years past been increasing in wretchedness to a degree, that *I am in want of daily bread, and my servants and animals are dying of hunger. My distresses are so great, that I have not been able to pay a daum to to the surgeons for the cure of my wounds; and they too are discouraged from affording me their assistance, or furnishing me with medicines.* How then is it possible for me to exist? Considering you as my patron, participating in my afflictions, I have represented the circumstances concerning my situation; and I hope from your friendship, that you will honour me with a favourable answer."

XLVII.—The resident Bristow did also receive a strong application from three others of the brethren of the reigning sovereign, called Mirza Hyder Ali, Mirza Ennayut Ali, and Mirza Syef Ali, representing their very pitiable case, in a letter of the 9th of March, 1783, in which, among other particulars, are contained the following:

"Our situation is not fit to be represented. *For two years we have not received a hubba* on account of our tuncaw [assignment on the revenue] though the ministers have annually charged a lack of rupees, and never paid us any thing. *After all we are the sons of Shuja ul Dowla!* It is surprising, having such a friend as you, our situation is arrived at that pass, that we should be in distress for *dry bread and clothes.* Whereas you have done many

generous acts, be pleased so to snow us your favour, that by some means we may receive our allowances from the company's treasury, and not be obliged to depend upon, and solicit others for it."

XLVIII.—That one of the princes aforesaid, called the Mirza Jungly, about, the beginning of the year 1783, was obliged to fly from the dominions of the nabob of Oude, and to leave his country and connexions; and as the resident Bristow, writing from Lucknow, hath observed, "he went to try his fortune at other courts in preference to starving at home, which might have been his fate by all accounts at this place." And the said prince sought for succour at the court of one of the neighbouring Mahomedan princes; but conceiving some disgust at the treatment he met with there, he departed from thence, and on the 8th of February, 1783, arrived at the Mahratta camp, while David Anderson, Esquire, was there in the character of minister plenipotentiary to the company, with a view, if his reception there should not prove answerable to his wishes, to pass on to the southward. And the said Anderson, probably considering this event as of very great importance to the honour of the British government, as well as to its interests, on the one hand, by exhibiting the son and brother of a sovereign prince, from whom the company had received many millions of money, a fugitive from his country, and a wanderer for bread through the courts of India; and on the other the consequences, which might arise from the Mahrattas having in their possession, and under their influence a son of the late nabob of Oude, did without delay advise Warren Hastings, Esquire, of the event aforesaid; and he did also write to Mr. Bristow, the resident at the court of the nabob vizier, several letters of the 9th and 20th of February, and of the 6th of March and 6th of April, 1783, in order that some steps should be taken for his return, and establishment in his own country. And the said Anderson did inform the resident Bristow, in his letter aforesaid, that on the arrival of the fugitive prince, brother of the reigning sovereign of Oude, at the Mahratta camp, he did cause his tent to be pitched close to that of Mr. Anderson; but finding this not agreeable to the Mahratta general, Scindia, he afterwards removed: and that he showed a strong attachment to the English, and was inclined to throw himself upon their generosity; that he was desirous of going to Calcutta, and declared, that if he, the said Anderson, "would give him the smallest encouragement, he would quit all his followers, and come alone, and would take up his residence under his protection." And the said Anderson did declare, that he thought it "would be policy, and much to the credit of our government, that some provision should be made for Mirza Jungly in our territories."

XLIX.—That the said Bristow did represent the aforesaid circumstances to Hyder Beg Cawn, minister to the nabob of Oude, declaring it his opinion, "that his highness's brothers thus taking refuge with a foreign prince is a reflection upon the vizier, and it would be advisable, that an allowance should be granted to him upon the footing of his brothers, that he might remain in the presence." But the nabob was induced to refuse to his brother any offer of any allowance beyond the two hundred pounds per month, allowed, but not paid, to his other brothers; and which the said prince did observe to Mr. Anderson, "that it was not only inadequate to his expenses, but infinitely less (as the truth was) than what his excellency has settled on many persons of inferiour rank, who have not so good a claim to his support: and that it would not be sufficient to enable him to live at Lucknow, where all his friends and relations were, and so many of his inferiours lived in a state of affluence." In case, therefore, it could not be increased, he requested leave to live in the company's provinces, or at Calcutta, for that in any of these situations "he could with less difficulty regulate his expenses." And he did declare, that, if his request was granted to him, he would immediately quit all prospects with Scindia. To these propositions he received a very discouraging answer from his brother's minister, containing a positive and final refusal of any increase of allowance, obtaining only the nabob's permission to retire into the company's provinces: but Mr. Anderson did not think himself authorized to take any steps for the prince's retreat into the said province without Scindia's concurrence, who, he observed, would use every art to detain him; and accordingly did offer him the command of a battalion of infantry to be paid directly from his own treasury, and 6000*l.* sterling a year for keeping up a corps of horse, and to settle upon him a landed estate of 4000*l.* a year as a provision for his wife and children;

which honourable offers it appears he did accept, and did and doth remain in the Mahratta service.

L.—That during the whole course of this transaction the said Warren Hastings was duly advised thereof, first by a very early letter from the said Anderson, and afterwards by the resident Bristow, who, on the 23d of April, 1783, transmitted to him his whole correspondence with Mr. Anderson. But what answer or instructions the said Warren Hastings did give to Mr. Anderson does not appear, he not having recorded any thing upon that subject. But it appears that to the resident Bristow, who required to be informed whether the reception of the fugitive prince aforesaid in the company's provinces would meet his approbation, he gave no answer whatsoever; by which criminal neglect, or worse, with regard to a brother of an ally of the company, who showed a strong attachment and preference to the English nation, and by suffering him without any known effort to prevent it, to attach himself to the cause and fortunes of the Mahrattas, who, he, the said Hastings, well knew, did keep up claims upon several parts of the dominions of Oude, and had with difficulty been persuaded to include the nabob in the treaty of peace, he, having suffered him first to languish at home in poverty, and then to fly abroad for subsistence, and afterwards taking no step, and countenancing no negotiations for his return from his dangerous place of refuge, at the same time that several of his, the said Hastings's creatures had each of them allowances much more considerable than would have sufficed for the satisfaction and comfort of him, the said fugitive prince—was guilty of a high crime and misdemeanour.

LI.—That the indigent condition before related of the other brothers of the nabob was also duly transmitted to the said Warren Hastings, but he did never order or direct any steps whatsoever to be taken towards the relief of the family of a reigning prince, who were daily in danger of perishing by famine through the effect of his measures, and those of a person, whom he supported in power against the will and inclination of the said prince and his family.

LII.—That the foregoing instances of the penury, distress, dispersion, and exile of the reigning family, as well as the general disorder in all the affairs of Oude, did strongly enforce the necessity of a proper use of the British influence (the only real government then existing) in the province aforesaid for a regulation of the economy of the vizier's court, as well as for the proper administration of the public concerns, civil and military, which were in the greatest disorder; and the said Warren Hastings was under obligation to provide for the same, and did himself understand it to be his duty so to do; and that he was therein warranted by the spirit of the treaty of Chunar, as well as by other universal powers of control, and even of supercession, supposed by him to exist in the relation between the British government and that of Oude, and accordingly he did, in his instructions to the resident Middleton, to which he required his most implicit obedience, direct him to an interference in and control upon all the affairs concerning the revenues, the military arrangements, and all the other branches of the nabob's government.

LIII.—That upon his recall of the said Middleton, he, in his instructions to the resident Bristow, dated 23d of October, 1781, did at large set forth the situation of the court and government of Oude, the situation and character of the nabob, of the acting minister, and of the British resident, at that court; and did plainly, distinctly, and without reserve, describe the extent of the authority to be exercised by the last of these persons, as well as the unqualified compliance to be expected from the two former. And he did accordingly declare, that "*from the nature of our connexion with the government of Oude*, and from the nabob's incapacity, *a necessity will for ever exist*, while we have the claim of a subsidy upon the resources of his country, of exercising an influence, and frequently substituting it *ENTIRELY, in the place of an avowed and constitutional authority in the administration of his (the nabob's) government*;" and he did further in the said instructions, namely, in instruction the fourth, direct the said resident in the words following: "I must have recourse to you for the introduction of a *new* system in that government; nor can I omit, whilst I express my reliance on you for that purpose, to repeat the sentiments, which I expressed in the verbal instructions, which I gave at your departure, *that there can be no medium in the relation between the resident and the minister, but either the resident must be the slave and vassal of the minister, or the minister at the absolute disposal of the resident.*" And he, the said Hast-

ings, did state, in the said article of the instructions aforesaid, that though the conduct of the said Hyder Beg Khân had been highly reprehensible, and that he was much displeased thereat, he would prefer him to any other, on account of his ability and knowledge of business, with the following proviso, "if he would submit to hold his office on such conditions as I require. He exists by his dependence on the influence of our government. It must be advisable to try him by the mode of conciliation; at the same time that in your *final conversation with him* it will be necessary to declare to him, in the *plainest terms*, the footing and condition, on which he shall be *permitted* to retain his place; with the alternative of a dismission, and a scrutiny into his conduct, if he refuses it. In the first place, I will not receive from the nabob, *as his* letters dictated by the *spirit of opposition;* but shall consider every such attempt *as an insult on our government.* In the second place, I shall expect, that *nothing* is done in his official character but with your knowledge and participation."

LIV.—That the said Hastings having described, in the manner aforesaid, the relative situation of the resident and minister, he did state also the relative situation of the said minister and his master the nabob, declaring, "that the minister did hold *without control* the unparticipated and entire administation, with all the powers annexed to that government; the *nabob being, as he ever must be in the hands of some person, a mere cypher in his*" [the minister's.] And having thus stated the subordination of the minister to the resident, and the subordination of the nabob to the minister, he did naturally declare, "that the first share of the responsibility would rest upon the said resident." And he did further declare, "that the other conditions did follow distinctly in their places, because he did consider *the resident as responsible for them.*"

LV.—That for the direction of the resident in the exercise of so critical a trust, wherein all the true and substantial powers, of government were in an inverted relation and proportion to the official and ostensible authorities, and in which the said Hastings did suppose the necessity constantly existing for exercising an influence, and frequently for substituting entirely the British authority "in the place of the avowed and constitutional government," he, the said Hastings, did properly leave the resident a discretionary power for his deviation from any part of his instructions; interposing a caution for his security and direction, that, as much as he could, he would leave the subject free for his (the said Hastings's) correction of it; and would instantly inform him, or the board, according to the degree of its importance, with his reasons for it.

LVI.—That besides the institution of the courts of justice, as before recited, four other principal objects in the reformation of the affairs of Oude were expressly recommended to the residents Middleton and Bristow, and must be understood to be the conditions, upon which the said Hastings must have meant to have it understood, that the acting minister of Oude was to hold his employment, namely, the limitation of the nabob's personal expenses; the reduction of the nabob's troops in number, and the change in arrangement; the appointment of proper collectors for the revenues; and the appointment of proper officers for all parts of the executive administration.

LVII.—That the first object, namely, that of the limitation of the nabob's personal expenses, and separating them from the public establishments, he, the said Hastings, did state as the first and fundamental part of his regulation, and that, upon which all the others would depend; and did declare, "that in order to prevent the vizier's alliance from being a clog instead of an aid to the company, *the most essential* part is to *limit* and *separate* his personal disbursements from the public accounts: *they must not exceed* what he has received in any of the last three years." And as to the public treasury and disbursements, he, the said Hastings, did, in the said instructions, wholly withdraw them from the personal management or interference of the nabob, and did expressly order and direct, "that they should be under the *sole* management of the ministers, with the resident's concurrence." And on the appointment of the resident Bristow, in October, 1782, he the said Hastings did order and direct him in every point of the instructions to Middleton, not revoked or qualified by his then instructions, to which he did require his [the said resident Bristow's] "most attentive and literal obedience."

LVIII.—That the said resident Bristow did, in consequence of the renewal to him of

the said instructions as aforesaid, endeavour to limit and put in order the nabob's expenses; but he was in that particular traversed and counteracted, and in the end wholly defeated, by the minister Hyder Beg Khân. And though the obstructions aforesaid, agreeably to the instructions given to Middleton, and to him, the said Bristow, were represented to the said Warren Hastings by the resident aforesaid, yet the said Warren Hastings did give no kind of support to the said resident, or take any steps towards enabling him, the said resident, to effectuate the said necessary limitation and distribution of expenses, by himself the said Hastings ordered and prescribed; nor, if he disapproved the proceedings of the said resident, did he give him any instructions for the forbearance of the same, or for the exerting his duty in any other mode; nor did he call for any illustration from him of any thing doubtful in his correspondence, nor state to him any complaint made privately of his conduct, in order to receive thereon an explanation; but he did leave him to pursue, at his discretion, the extensive powers before described, to effect the reformation, which he was directed to accomplish under the responsibility denounced to him as aforesaid, if he should fail therein, as he was supposed to be substantially invested with all the powers of government.

LIX.—That instead of the said support or instruction, he, the said Hastings, did countenance, or more probably cause or direct a representation to be made to him by the acting minister of the nabob of Oude, complaining grievously of the proceedings of the resident aforesaid, as usurpations on the nabob's authority, and indignities on his person. And although he, the said Hastings, did instruct the resident, Bristow, to inform the said Hyder Beg Khân, that he would not receive from the nabob, as *his*, letters directed by the spirit of opposition, but should consider every such attempt as *his* [the minister's] as an insult on our government; yet he did receive, as *his*, the nabob's own letters, and as written from the impressions on his own mind, and as the suggestions of his own judgment, letters to the same effect as those written by the minister, although he had declared upon record, that the said "nabob was a mere cypher in his the said minister's hands," and "that he had dared to use both the nabob's name, and even his seal, affixed to letters either directed to the nabob, or written as from him without his knowledge;" and although he did assert, or record as aforesaid, that in a letter, which he had lately received from the nabob, the minister had the presumption to make the nabob declare that which was *true* to be *false*; and that "his *making use* of the nabob in such a manner did show how thin the veil was by which *he* covered *his own acts*; and that such artifices would only tend to make them the more criminal from the *falsehood and duplicity with which they were associated*."

LX.—That the said Hastings did act upon the letters pretended to be written by the nabob, as well as on those actually written by the minister, without previously communicating the matter of the said complaint to the said resident, and did give credit to the same; and coming as aforesaid from a person by himself (the said Hastings) charged with artifice, falsehood, and duplicity, and with abusing to his own evil purposes the name and seal of his master, without his knowledge, and without any previous inquiry into the facts and circumstances; and did thereon ground an accusation against the said resident, Bristow, before the board at Calcutta, in which he did represent the conduct of the said Bristow, in attempting to limit the household expenses of the nabob, as an indignity, "which no man living, however mean his rank in life, or dependent his condition in it, would permit to be exercised by any other, but with the want or forfeiture of every manly principle." And he did further accuse the said Bristow, for that in his proceedings in the regulation of the nabob's household "he should receive to himself, or Mr. Cowper for him, or a treasurer for both (the arrangement has never been well defined) the money assigned for the support of the nabob's household; issue it as he pleased, not to the nabob, but to the menial officers of his household: dispose of his superfluous horses, and other cattle; determine how many elephants were necessary to the state of the vizier of the empire; the number of domestics for his attendance; and pry into the kitchen for the purpose of ascertaining the quantity of victuals which ought to be dressed in it; control the accounts of these disbursements; and appropriate to his own use (for that the consequence was inevitable, if he chose it) the residue produced by those economical retrenchments."

LXI.—That the said charge is malicious and insidious, because the attempt to introduce proper officers for the management of

household expenses, so considerable, that the said Hastings has stated the allotment for the same at 300,000*l.* sterling yearly, and that other accounts have carried it to 400,000*l.* sterling, and upwards, and to keep proper and regular accounts thereof, was a necessary regulation, and agreeable to the dignity of the nabob, and by no means a degradation either of his person or authority, which was specially provided for in the regulations, as no expense could be incurred but by his own personal warrant under his sign manual; nor doth there appear therein any thing but what is of absolute necessity to prevent embezzlement to his prejudice. And the said Hastings hath declared, in the 5th article of the instructions to the said resident, that *no* administration can be properly conducted without regular offices; and that in the whole province of Oude "there was *not one*, the *whole* being engrossed by the minister:" of which minister, in the 14th article, he declares his suspicion, that the nabob did not receive the whole and punctual payment of the sum assigned for the purpose of the household, but that some part had been by him withheld from the nabob; and that, from private information he had lately received, he had reason to believe that this was actually the case. And the said Hastings well knew that the nabob's household had been ill conducted; that the allowances of his servants had not been paid; that his distress was scandalous; and that his nearest relations were in a famishing condition: and the said Hastings did also well know that the household of the nabob was provided for or neglected, not at his own discretion, but at that of the said Hyder Beg Khân; and he did, in the 14th article aforesaid, instruct the resident Bristow to show every ostensible and external mark of respect to the nabob, in order to induce him to become himself the mover of every act necessary for the advancing of his own interests, and the discharge of his debts to the company, declaring, "that they never could be effected while the minister retained that ascendancy over him, which he at present holds by the means of a nearer and more private intercourse, and by affecting to be the mediator of his rights against the claims of our government." And the said Hastings did further well know, that there was no way of ascertaining the payment of the assignment for the nabob's household, either for the general purposes of their destination, or to the particular objects to which they ought to be applied, without regular offices of receipt and of account, which might prevent the said minister Hyder Beg Khân, or the British resident, or any other, from embezzling or misapplying the same. But the total want of offices aforesaid in every department of government did furnish occasion of concealing all frauds, clandestine presents, or pensions to a governour-general, commander-in-chief, or other servant of the company.

LXII.—That the said Warren Hastings, who did pretend so deep a concern for the indignities supposed to be suffered by the nabob, merely in the limitation and regulation of unnecessary expenses relative to his kitchen, domestics, &c. did show no attention or compassion to the said nabob, when, in the year 1779, the said nabob represented that the pensions of his old servants for thirty years, the expenses of his family and kitchen, together with the jaghires of his grandmother, mother, and aunts, and of his brothers and dependants, given for their support, were not *regulated*, but *stopped*.

LXIII.—That the other articles of regulation, namely, the reform of the troops in number and in arrangement, the appointment of proper collectors for the revenues, and the general constitution of officers for the executive administration, were in like manner totally defeated by the said Hyder Beg Khân. And the said Hastings did receive a charge from him, and did adopt it as his own, representing the endeavours of the resident to act in the regulations aforesaid agreeably to the spirit of his instructions, and in confidence of the powers vested in, and the responsibility imposed upon him, the said resident, as usurpations of the authority and prerogative of the nabob; and he, the said Hastings did make criminal charges thereon against the said resident Bristow, of which charges the council board did, on hearing the same, and the defence of the said Bristow, fully acquit him.

LXIV.—That the said Hastings, by abetting Hyder Beg Khân, a person described by him as aforesaid, in his opposition to all the plans of necessary reformation proposed by the said Hastings himself, and having suggested no other whatever in lieu thereof, to answer the purposes, for which he had stipulated in the treaty of Chunar for the interference of the resident in every branch of the nabob's government, did thereby frustrate every one of the good ends proposed by him

in the said treaty of Chunar, and did grossly abuse his trust in giving the exorbitant powers before recited, and asserting them to exist in the British resident, without suffering them, even in appearance, to answer any of the proper and justifiable ends, for which any power or influence can or ought to exist in any government.

LXV.—That there is just ground to violently presume, that not only the letters in the name of the nabob aforesaid were dictated to him by his minister Hyder Beg Khân, in whose hands the said Hastings has described his master to be "a mere cypher," &c. but which Hyder Beg was the known instrument of the said Hastings; but that the conduct and letters of complaint of the said Hyder Beg were, in effect and substance prescribed and dictated to him by the said Warren Hastings, or his secret agent, Palmer, by his direction; because it is notorious, that the powers of the said Hyder Beg were solely supported by him, the said Hastings, who, according to the state of favour or displeasure in which he stood, hath frequently promised him support, or threatened him with dismission and punishment: and therefore it is not to be thought that he would take so material a step as to oppose the company's resident, acting under the instructions of the governour-general and council, and to accuse him with so much confidence, and in a manner so different from the usual style of supplication on all other occasions employed by that court, if he had not been previously well assured that his writing in that manner would be pleasing to the person upon whom he solely depended for his power, his fortune, and perhaps for his life. Secondly, because, when it suited the purposes of the said Hastings, on a former occasion, that is, in the year 1784, to remove the resident Bristow aforesaid from his office, a letter from the nabob was laid before the council board at Calcutta, proposing, that in order to prevent the effects of the said Bristow's application to Europe for redress, the said Hastings should send him draughts of letters, which he, the said nabob, would write in his own name and character to the king, to his majesty's ministers, and to the court of directors, expressing himself, in the letter aforesaid, in the words following: viz. "to prevent his [Bristow's] applying to Europe, send me, if *you* think proper, the draughts of letters, which *I* may write to the king, the vizier, and the chiefs of the company." Thirdly, that though the said Hastings, and his secret agent Palmer, did pretend, and positively assert, that they had no share in the letters aforesaid from the nabob's and his minister, there was an original note to the nabob's letters of accusation, referring to distinct parts and specified numbers of the agent Palmer's secret correspondence with the said Warren Hastings; and the said letter, with the said reference, was, through inadvertence, laid before the board.

LXVI.—That the said Warren Hastings, having thrown the government of Oude into great confusion and distress, and thereby prevented the discharge of the debt, or pretended debt, to the company, did by all the said intrigues, machinations, and charges, aim at the filling the said office of resident at Oude with his own dependants, or by himself personally, as it appears, that he did first propose to place in the said office his secret agent, Palmer, and that afterwards, when he was not able to succeed therein, he did propose nominally to abolish the said office, but in effect to fill it by himself; proposing to the council, and rendering himself responsible (but not in fortune) for the payment of the company's debt within a certain given time, if he were permitted and commissioned by the council to act for the board in that province; and did inform them, that he was privately well assured that in a few days he should receive an invitation to that effect; and he did state (as in the year 1781 he had stated as a reason for his former delegation) "that the state of the country was so disordered in its revenue and administration, and the credit and influence of the nabob himself so much shook by the *late usurpation* of his authority, and the contests which attended it, as to require the accession of an extraneous aid to restore the powers, and to reanimate the constitution of his government;" although he the said Hastings did for a long time before attribute the weakness of his government to an extraneous interference. And the said council, on his engagement aforesaid, did consent thereto; and he did accordingly receive a commission, enabling him to act in the affairs of Oude, not only as the resident might have done, but as largely as the council-general might legally delegate their own powers.

LXVII.—That the said Warren Hastings, in accepting the said commission, did subject his character, and the reputation of his office, to great imputations and suspicions by taking upon himself an inferiour office, out of

which another had upon his intrigues been removed by a perpetual obstruction, which rendered it impossible for him to perform his duty, or to obey his instructions; and he did increase the said grounded suspicions by exercising that office in a government, from whence it was notorious he had himself received an unlawful gift and present from the ministers, and in which he had notoriously suffered many, and had himself actually directed some acts of peculation, by granting various pensions and emoluments, to the prejudice of the revenue of a distressed country, which he was not authorised to grant.

LXVIII.—That the said Warren Hastings did proceed unto the said province of Oude under colour of providing a remedy for the disorders described to be existing in the same, and for the recovery of the company's pretended debt. And the said Warren Hastings, who had thought fit to recall the company's resident appointed to that office by the court of directors, and to suspend his office, did, notwithstanding, of his own choice and selection, and on his own mere authority, take with him in his progress a large retinue, "and a numerous society of English gentlemen, to compose his family," which he represents as necessary; although in a letter from that very place, to which he took that very numerous society, he informs the court of directors, "that his own consequence, and that of the nation he represents, are independent of show;" and after his arrival there, he, the said Warren Hastings, did write from Lucknow, the capital of that province, a letter dated the 30th of April, 1784, to the court of directors, in which are several particulars to the following purport or tenour, and which he points out to the directors "to be circumstances of no trivial information," namely, "that he had found, that the lands in that province, as well as in some parts more immediately under the company, have suffered in a grievous manner, being completely exhausted of their natural moisture by the total failure of one entire season of the periodical rains," with a few exceptions, which were produced only "by the uncommon labour of the husbandman." And in a letter to Edward Wheler, Esquire, a member of the council-general, from Benares, the 20th of September, 1784, he says that "the *public revenues* had declined with the failure of the cultivation *in three successive years;* and all the stores of grain, which the *providence of* the husbandman (as he was informed was their custom) in defiance of the *vigilance* of the aumils [collectors] *clandestinely reserved for their own use*, were of course exhausted, in which state no person would accept of the charge of the collections on a positive engagement, nor did the rain fall till the 10th of July."—And in another letter, dated from Benares, the 1st of October following, he repeats the same accounts; and that the "country could not bear further additions of expense; that it had *no inlets of trade* to supply the issues, that were made from it;" [the exceptions stated there being inconsiderable] "therefore *every rupee*, which is drawn into your treasury [the company's] from its circulation, will accelerate the period at which its ability must cease *to pay even the stipulated subsidy*." Notwithstanding this state of the country, of which he was well apprized before he left Calcutta, and the poverty and distress of the prince having been frequently but in vain represented to him, in order to induce him to forbear his oppressive exactions, he did, in order to furnish the council with a colour for permitting him to recall the company's resident, and to exercise the whole powers of the company in his own person without any check whatsoever, or witness of his proceedings, except the persons of his own private choice, make the express and positive engagement aforesaid, which, if understood of a real and substantial discharge of debt for the relief of the total of the company's finances, was grossly fallacious; because, at the very time, he must have been perfectly sensible, that in the then state of the revenues and country of Oude (which are in effect the company's revenues, and the company's country) the debt, or pretended debt aforesaid, asserted to be about five hundred thousand pounds, or thereabouts, could not be paid without contracting another debt, at an usurious interest, without encroaching on the necessary establishments, or on private property, or on the pay of the army, or without grievous oppression of the country, or all these altogether. And it doth appear, that one hundred thousand pounds towards the said payment of debts was borrowed at Calcutta by the nabob's agent there, but at what interest is not known. It appears also, that other sums were borrowed for arrear of the interest, on which 40,000*l.* sterling appears in the company's claims for the current year, and that various deductions were made from the jaghires restored to the begums, as well as other parts of the nabob's family; and it did and doth appear, that an arrear is still due to the old and new brigade,

but whether the same be growing or not, doth not appear; yet he hath not hesitated to assert, that he had "provided for the *complete* discharge in *one* year of a debt contracted by the *accumulation of many*, and from a country, whose resources have been wasted and dissipated by three successive years of drought and one of anarchy." But the said Hastings never did even realize the payments to be made in the first year (as he confesses in the said letter) except by an anticipation of the second; and though he states in his letter aforesaid the following facts and engagements, that is to say, "*that a recovery of so large a part of your property* [the company's] will afford a seasonable and substantial relief to the necessities of your government, and enable it (for such is my confident hope) *to begin on the reduction of your debt at interest* before the conclusion this year (I mean the year of this computation.)" Whereas the said Warren Hastings did apply the whole produce of the revenue to the mere pay of some part of the British army in Oude; and did not mention in his correspondence that he had remitted any money whatsoever to Calcutta, nor to any other place (except the fifty thousand pounds taken from Almas Ali Khân, and said to be remitted to Surat) for the said "substantial relief," in consequence of the said pretended "recovery of property," admitting, that it had been suggested to him and not by him denied, that he had "disappointed the popular expectation by not adopting the policy, which he had *on the conception of better grounds*, rejected; nor did he begin the reduction of the interest debt" at the time stated, nor at any time; but the whole (he well knowing the state of the country from whence the resources aforesaid were by him promised) was a premeditated deceit and imposition on the board of council, his colleagues, and on the court of directors, his masters.

LXIX.—That no traces of regulation appear to have been adopted by the said Warren Hastings during his residence at Lucknow in conformity to the spirit and intentions of the treaty of Chunar, or of his instructions to Middleton and Bristow, or of the proposed objects of his own commission. But he did, in lieu thereof, pretend to free the nabob's government from the interference of the company's servants, and the usurpation (as he calls it) of a resident, and thereby to restore it to its proper tone and energy; whereas the measures he took were such as to leave no useful or responsible superintendence in the British, and no freedom in the nabob's government; for he did confirm the sole, unparticipated, and entire administration, with all the powers annexed to the government, on the minister Hyder Beg Khân, to whom he *prevailed* on the nabob vizier to commit the entire charge of his revenues, although he knew that his master was a cypher in his hands; that he "had affixed his seal to letters written without his knowledge, and such as evidently tended to promote Hyder Beg Khân's influence and interest;" that his said master did not consider him as a minister of his choice, but as an instrument of his degradation; that "he exists as a minister by his dependence on the Calcutta government, and that the nabob himself had no other opinion of him; that it is by its *declared* and most *obvious* support *alone* that he could maintain his authority and influence." And in his instructions to his secret agent, Major Palmer, dated 6th of May, 1782, to ease his mind, and remove his jealousy with regard to British interference, he did instruct him "that much delicacy and caution will be required in your declarations on this subject, lest they should be construed to extend to an immediate change in the administration of his affairs or the instruments of it. Their persons must be considered as *sacred*, *while* they act with the *participation of our influence*." This distinction the nabob *understands*; nor will it be either necessary or proper to allude to it, unless he himself should first introduce the subject." And the said Hastings did assume, as to a dependant of the lowest order, to prescribe to him the conditions on which he is to hold his place, to threaten him with scrutinies into his conduct, with dismission, with punishment; that he was guilty of falsehood and duplicity; and that he had made his master assert what was true to be false; that he suspected he had withheld from his master what he ought to have paid to him—that the event of his having prevailed on the nabob to entrust him as aforesaid was, according to his, the said Hastings's own letter, written to the said Hyder Beg Khân himself, "an accumulation of distress, debasement, and dissatisfaction to the nabob, and of disappointment and disgrace to me. Every measure, which he had himself proposed, and to which he had solicited my assistance, has been so conducted as to give him cause of displeasure; there are no officers established by which his affairs could be regularly conducted; mean, incapable, and indigent men have been appointed aumils of the district, without authority, and without the

means of personal protection; some of them have been murdered by the zemindars, and those zemindars, instead of punishment, have been permitted to retain their zemindaries with independent authority; all the other zemindars suffered to rise up in rebellion, and to insult the authority of the sircar, without any attempt made to suppress them; and the company's debt, instead of being discharged by the assignments, and extraordinary sources of money provided for that purpose, is likely to exceed even the amount at which it stood at the time in which the arrangement with his excellency was concluded. *The growth of these evils was early made known to me, and their effects foreboded in the same order and manner as they have since come to pass.* In such a state of calamity and disgrace, I can no longer remain a passive spectator; nor would it be becoming to conceal my sentiments, or qualify the expression of them. I now plainly tell you, that you are answerable for every misfortune and defect of the nabob vizier's government." And after giving orders, and expressing some hopes of better behaviour, he adds, "If I am disappointed, you will impose on me the painful and humiliating necessity of acknowledging to him that I have been deceived, and of recommending the examination of your conduct to his justice, both for the redress of his own and the company's grievances, and for the injury sustained by both in their mutual connexion. *Do not reply to me*, that what I have written is from the suggestion of your enemies; nor imagine that I have induced myself to write in such plain and declaratory terms, without a clear insight into all the consequences of it, and a fixed determination upon them."

LXX.—That the aforesaid being the tenour of the power of the said minister, and such his character, as given by the said Warren Hastings himself, who did originally compel the nabob to receive him, who did constantly support him against the nabob his master, as well as against the company's resident;—the delivering over to such person his master, his family, his country, and the care of the British interests therein, without control or public inspection, was a high crime and misdemeanour.

LXXI.—That the next person, whom the said Hastings did invest with power in the said country, was a certain opulent and powerful native manager of revenue, called Almas Ali Khân, closely connected with the said Hyder Beg Khân; and to whom the said Hyder Beg Khân, as the said Hastings has admitted, "had entrusted the greatest part of his revenues, without any pledge or security for his fidelity." And afterwards the said Hastings charges the said Almas Ali with an intention of removing from the nabob's dominions; he states, "as taking with him," and therefore being possessed of "an immense treasure, the fruits of his embezzlements and oppressions, and an army raised for its protection."

LXXII.—That the said Warren Hastings was, or pretended to be, impressed with the evil character, dangerous designs, and immoderate power of the said Almas Ali; that he did insert, among his instructions to the resident Bristow, an order of a dangerous and unwarrantable nature, in which upon his, the said Hastings's, simple allegation of offences not accurately described or specified with regard either to the fact, the nature of the offence, or the proof, he was required to urge the nabob to put him to death, with many qualifications in the said instructions, full of fraud and duplicity, calculated to ensnare the said resident Bristow, and to throw upon him the responsibility of the conduct of the said Almas Ali Khân, if he should continue at large contrary to his orders, or to reject him, the said resident, to the shame and scandal of apprehending and putting to death by means, which, in the circumstances, must necessarily be such as would be construed into treachery; he, the said Almas Ali Khân, being from nature and situation suspicious and watchful, and being at that very time in the collection, or farmer of the most important part of the revenues, with an extensive jurisdiction annexed, and at the head of fourteen thousand of his own troops; and having been recently accepted by the resident Middleton as security for large sums of money advanced by the bankers of Benares to the use of the East-India company; which orders (if the said resident would or could have executed them) must have raised a universal alarm among all the considerable men of the country concerned in the government, and would have been a means of subverting the public credit of the company by the murder of a person engaged for very great sums of money, that had been advanced for their use.—And the said instructions are as followeth:

"If any engagement shall actually subsist between them at the time you have charge of the residency, it must, however exceptionable, be faithfully observed; but if he has been

guilty of any criminal offence to the nabob, his master, for which no immunity is provided in the engagement, or he shall break any one of the conditions of it, I do most strictly enjoin you, and it must be your special care to endeavour, *either by force or surprise*, to secure his person and bring him to justice. By bringing him to justice I mean, that you urge the nabob, on due conviction, *to punish him with death*, as a necessary example to deter others from the commission of the like crimes; nor must you desist until this is effected.—I cannot prescribe the means; but to guard myself against the obloquy, to which I may be exposed by a forced misconstruction of this order by those which may hereafter be employed in searching our records for cavils and informations against me, I think it proper to forbid, and protect against the use of any *fraudulent artifice or treachery to accomplish the end which I have prescribed*; and as you alone are privy to the order, you will of course observe the greatest secrecy, that it may not transpire; but I repeat my recommendation of it, as one of the first and most essential duties of your office."

LXXIII.—That among the reasons assigned for putting to death the said Almas Ali, which the said Hastings did recommend directly and repeatedly to the resident, "as one of the first and most essential duties of his office," was in substance, "that by his extensive trust with regard to the revenues he had been permitted to require independency; that the means thereof had been long seen, and the effects thereof foretold by every person acquainted with the state of government, except those immediately interested in it:" and he, the said Warren Hastings, did also charge the said Almas Ali with embezzlement of the revenues, and oppression of the people; and nothing appears to disprove the same, but much to give ground to a presumption, that the said Almas Ali did grievously abuse the power committed to him, as farmer and collector of the revenue, to the great oppression of the inhabitants of the countries, which had been rented to him by Hyder Beg Khân, with the knowledge and consent of the said Warren Hastings.

LXXIV.—That the resident Bristow, declining the violent attempt on the life of Almas Ali, deceitfully ordered by the said Warren Hastings, did, on weighty reasons, drawn from the spirit of the said Hastings's own instructions, recommend, that his the said Almas Ali Khân's, farms of revenue, or a great part of them, should be, on the expiration of his lease, taken out of his hands, as being too extensive, and supplying the means of a dangerous power in the country; but yet he the said Warren Hastings did not only continue him in the possession of the said revenues, but did give him a new lease thereof for the term of five years. And on this renovation and increase of trust the said Warren Hastings did not consent to produce the informer, upon whose credit he had made his charge of capital crimes on the said Almas Ali, and he directed him to be put to death, or call upon him to make good his charges; but instead of this, totally changing his relation to the said Almas Ali, did himself labour to procure from all part attestations to prove him not guilty of the perfidy and disloyalty, of which the said Hastings himself appears to have been to that time his sole accuser, as he hath since been his most anxious advocate; but though he did use many endeavours to acquit Almas Ali of his intended flight, yet concerning his embezzlements and oppressions, the most important of all charges relative to that of the revenue and collection, he the said Hastings hath made no inquiry whatever. by which it might appear that he was not as fully guilty thereof as he had always represented him to be. But some time after he the said Warren Hastings had arrived at Lucknow, in the year 1784, he suggested to the said Almas Ali Khân the *advance* to the company's use a sum of money, amounting to fifty thousand pounds, or thereabouts; and the said suggested advance was (as the said Warren Hastings asserts, no witness or document of the transaction appearing) "cheerfully, and without hesitation, complied with, considering it as an *evidence seasonably* offered for the general refutation of the charges of perfidy and disloyalty;"—which practice of charging wealthy persons with treason and disloyalty, and afterwards acquitting them on the payment of a sum of money, is highly scandalous to the honour, justice, and government of Great Britain; and the offence is highly aggravated by the said Hastings's declaration to the court of directors, that the charges against Almas Ali Khân have been too laboriously urged against him; and carried at one time to such an excess as had nearly driven him to abandon his country "*for the preservation of his life and honour*;" and thus to give "a colour to the charges themselves," when he the said Warren Hastings did well know, that he himself did consider as a crime, and did make it

an article in a formal accusation against the resident Middleton, that he did not inform him the said Hastings of the supposed treasons of Almas Ali Khân, and of his design to abandon the country, when he himself did most laboriously urge the charges against him; and when no attempt appears to have been made against the life of the said Almas Ali Khân, except by the said Warren Hastings himself.

LXXV.—That the sum of fifty thousand pounds sterling, or thereabouts, publically taken by the said Warren Hastings, as an *advance* for the use of the company, if given as a consideration, or fine, on account of the renewal for a long term of civil authority and military command, and the collection of the revenues to an immense amount, the same being at least eight hundred thousand pounds sterling yearly, was so totally inadequate to the interest granted, that it may justly be presumed it was not on that, or on any public ground or condition, that the said Hastings did delegate, out of all reach of resumption or correction, a lease of boundless power and enormous profit, for so long a term to a known oppressour of the country.

LXXVI.—That Warren Hastings being at Lucknow in consequence of his deputation aforesaid, did, in his letter from that city, dated 30th of April, 1784, recommend to the court of directors, "as his *last and ultimate hope*, that their wisdom would put a *final* period to the *ruinous and disreputable system* of interference, whether *avowed or secret*, in the affairs of the nabob of Oude; and withdraw *for ever the influence* by which it is maintained;" and that they ought to confine their views to the sole maintenance of the old brigade stationed in Oude by virtue of the first treaty with the reigning nabob; expressing himself in the following words to the court of directors: "If you transgress that line, you may extend the *distribution of patronage, and add to the fortunes of individuals*, and to the nominal riches of Great Britain; but your *own* interests will suffer by it; and the *ruin of a great and once flourishing nation will be recorded as the work of your administration, with an everlasting reproach to the British name.* To this reasoning I shall join the *obligations of justice and good faith, which cut off every pretext for your exercising any power or authority in this country, as long as the sovereign of it fulfils the engagements he has articled with you.*"

LXXVII.—That it appears, by the extraordinary recommendation aforesaid, asserted by him, the said Hastings, to be enforced by the "*obligations of justice and good faith*," that the said Warren Hastings, at the time of writing the said letter, had made an agreement to withdraw the British interference, represented by him "as a ruinous and disreputable system," out of the dominions of the nabob of Oude. But the instrument itself in which the said agreement is made, (if at all existing) does not appear; nor hath the said Hastings transmitted any documents relative to the said treaty, which is a neglect highly criminal; especially as he has informed the company, in his letter from Benares, "that he has promised the nabob that he will not abandon him to the *chance* of any other mode of relation; and most confidently given him assurance of *the ratification and confirmation* of that, which he, the said Hastings, had established between his government and the company;" the said *confident assurance* being given to an agreement never produced, and made without any sort of authority from the court of directors; an agreement, precluding on the one hand, the operation of the discretion of his masters in the conduct of their affairs, or, on the other, subjecting them to the hazard of an imputation on their faith, by breaking an engagement confidently made in their name, though without their consent, by the first officer of their government.

That the said Hastings, further to preclude the operation of such discretionary conduct in the administration of this kingdom, as circumstances might call for, has informed the directors, that he has gone so far as even to condition the existence of the revenue itself with the exclusion of the company, his masters, from all interference whatsoever; for in his letter to Mr. Wheler, dated Benares, 20th September, 1784, are the following words: "the aumils [collectors] demanded that a clause should be inserted in their engagements, that they were to be in full force for the complete term of their leases, *provided that no foreign authority* was exercised over them; or, in other words, *that their engagements were to cease whenever they should be interrupted in their functions by the interference of an English agent.* This requisition was officially notified to me by the acting minister, and referred to me in form by the nabob vizier, for my *previous* consent to it: I encouraged it, and I gave my consent to it." And the said Hastings has been guilty of

the high presumption to inform his said masters, that he has taken that course to compel them not to violate the assurances given by him in their name:—"there is one condition, [namely, the above condition,] which *essentially connects the confirmation of the settlement itself with the interests of the company*."

LXXVIII.—That the said Warren Hastings, who did show an indecent distrust of the company's faith, did endeavour, before that time, at other times, namely, in his instructions to his secret agent, Major Palmer, dated the 6th of May, of 1782, to limit the confidence to be reposed in the British government to the duration of his own power, in the following words in the 5th article: "It is very much my desire to impress the nabob with a *thorough* confidence in the faith and justice of our government; that is to say, *in my own*, while I am at the head of it: I cannot be answerable for the acts of others independent of me."

LXXIX.—That the said Warren Hastings did, in his letter, dated Benares, the 1st of October, 1784, to the court of directors, write, "that if they [the directors] manifested no *symptoms* of an [1]*intended* interference, the objects of his engagements will be obtained; [2]but if a different policy shall be adopted; if new agents are sent into the country, and armed with authority for the purposes of vengeance or corruption (*for to no other will they be applied;*) [3]if new demands are made on the nabob vizier, [4]and accounts overcharged on one side, with a wide latitude taken on the other, to swell his debt beyond the means of payment; [5]if political dangers are portended, to ground on them the plea of burthening his country with unnecessary defences and enormous subsidies; [6]or if even abstaining *from direct encroachment on the nabob's rights*, your government shall show but *a degree of personal kindness to the partisans* of the late usurpation, or by any constructive indication of partiality and dissatisfaction *furnish* grounds for the *expectation* of an *approaching* change of system;—I am sorry to say that all my labours will prove abortive."

LXXX.—That all the measures deprecated in future by the said Warren Hastings, with a reference to former conduct, in his several letters aforesaid, being (so far as the same are intelligible) six in number, have been all of them the proper acts and measures of the said Warren Hastings himself; for he did himself first of all introduce, and did afterwards continue and support that interference (which he now informs the court of directors "is ruinous and disreputable," and which the very *symptoms* of an *intention* to renew he considers in the highest degree dangerous;) he did direct, with a controlling and absolute authority in every department government, and in every district in the dominions of the nabob of Oude.—Secondly, the appointment of agents, which was eminently the act of his own administration; he not only retaining many agents in the country of Oude, both "*secret and avowed*," but also sending some of them, in defiance to the orders of that very court of directors, to whom, in his said letter of the 1st of October, 1784, he assigns "vengeance and corruption" as the only motives, that can produce such appointments.—Thirdly, that he the said Warren Hastings did instruct one of the said agents and did charge him upon pain of "*a dreadful responsibility*," to perform sundry acts of violence against persons of the highest distinction, and nearest relation to the prince; which acts were justly liable to the imputation of "*vengeance*" in the execution, and which he, in his reply to the defence of Middleton to one of his charges, did declare to be liable to the suspicion of "*corruption* in the relaxation."—Fourthly, that he did raise new demands on the vizier, "and overcharge accounts on one side, and take a wide latitude on the other," by sending up a new and before unheard-of overcharge of four hundred thousand pounds and upwards, not made by the resident, or admitted by the vizier; and by adding the same, did swell his debt "beyond the means of payment;" and did even insert, as the ninth article of his charge against Middleton, "his omitting to take any notice of the additional balance of rupees 26,48,571, stated by the accountant-general to be due from the vizier on the 30th of April, 1780," to which he did add fourteen lacks more, making together the above sum.—Fifthly, that he, the said Warren Hastings did assign "political danger" in his minute of the 13th of December, 1779, for burthening the said nabob of Oude "with unnecessary defences and enormous subsidies," with regard to which he then declared, that "it was *our* part, not *his* (the nabob's) to judge and to determine."—And sixthly, that

he did not only show the design but the fact of personal kindness to the partisans of what he here calls, as well as in another letter, and in one minute of consultation, a "late usurpation," he having rewarded the principal and most obnoxious of the instruments of the said late usurpation (if such it was) Richard Johnson, Esquire, with an honourable and profitable embassy to the court of the nizam.

LXXXI.—That the said Warren Hastings, therefore, by assuming an authority, which he himself did consider as an *usurpation*, and by acts, in virtue of that usurped authority, done in his own proper person, and by agents appointed by himself, and proceeding (though with some mitigation, for which one of them was by him censured and accused) under his own express and positive orders and instructions, and thereby establishing, as he himself observed, "a system of interference, disreputable and ruinous, which could only be subservient to promote patronage, private interest, private embezzlement, corruption, and vengeance," to the public detriment of the company, "and to the ruin of a once flourishing nation, and eternally reproachful to the British name;" and for the evil effects of which system, "as his sole and ultimate hope" and remedy, he recommends an entire abdication for ever, not only of all power and authority, but even of the interference and influence of Great Britain;—is guilty of an high crime and misdemeanour.

LXXXII.—That the said Warren Hastings, in his letter from Chunar of the 29th of November, 1781, has represented that very influence and interference (which in three public papers he denominates "*a late usurpation*") as being authorized by a regular treaty and agreement, voluntarily made with the nabob himself at a place called Chunar, on the 19th of September, 1781, a copy of which hath been transmitted to the court of directors; and that three persons were present at the execution of the same, two whereof were Middleton and Johnson, his agents, and residents at Oude, the third, the minister of the nabob. And he did in his paper written to the council-general and transmitted to the court of directors, not only declare, that the said interference was agreed to by the said nabob, and sealed with his seal, but would be highly beneficial to him; assuring the said council, "that if the resident performed his duty in the execution of his [the said Hastings's] instructions, the nabob's part of the engagement will prove of still greater benefit to him than to our government, in whose behalf it was exacted; and that the *participation*, which is allowed our resident in the *inspection* of the public treasure, will secure the receipt of the company's demands, whilst the *influence which our government will ALWAYS possess over the public minister of the nabob, and authority of our own*, will be an effectual means of securing an attentive and faithful discharge of their several trusts, both towards the company and the vizier."

LXXXIII.—And the said Warren Hastings did not only settle a plan, of which the agency and interference aforesaid was a part, and assert the beneficial consequences thereof, but did also record, that the same "was a great public measure, constituted on a large and established system, and destructive, in its instant effects, of the interest and fortune of many patronized individuals;" and in consequence of the said treaty, he, the said Warren Hastings, did authorize, and positively require, his agent aforesaid to interfere in, and control and regulate, *all the nabob's affairs whatsoever*; and the said Warren Hastings having made for the company, and in its name, an acquisition of power and authority, even if it had been abused by others, he ought to have remedied the abuse, and brought the guilty to condign punishment, instead of making another treaty without their approbation, consent, or knowledge, and to this time not communicated to them; by which it appears he has annulled the former treaty, and the authority thereby acquired to the company, as a grievance and usurpation, to which, from the general corruption of their service, no other remedy could be applied than a formal renunciation of their power and influence; for which said actings and doings the said Warren Hastings is guilty of an high crime and misdemeanour.

LXXXIV.—That the company's army in India is an object requiring the most vigilant and constant inspection, both to the happiness of the natives, the security of the British power, and to its own obedience and discipline; and does require that inspection in proportion as it is removed from the principal seat of government; and the number and discipline of the troops kept up by the native princes, along with British troops, is also of great moment and importance to the same ends:

that Warren Hastings, Esquire, pretending to pursue the same, did, in virtue of an authority acquired by the treaty of Chunar aforesaid, give strict orders, and to which he did demand a most implicit obedience, that *all* officers of the nabob's army should be appointed with the concurrence of the resident;" and supposing the case, that persons of obnoxious description, or of known disaffection to the British government should be appointed (of which he left the resident to be the judge) he did direct in the following words: "you are in such case to remonstrate against it; and if the vizier should persist in his choice, you are peremptorily, *and in my name*, to oppose it as a breach *of his agreement*;" and he did also direct, that the "mootiana [or soldiers employed for the collection of revenue] should be reformed, and reduced into one corps for the whole service: and that no infantry should be left in the nabob's service but what may be necessary for his body guard;"—and he did further order and direct as follows: "that in quelling disturbances the commander of the forces should assist you [the said resident] on the requisition of the vizier, communicated through you to him [the said commander] or at your own single application. It is directed, that the regiment ordered for the immediate protection of your office and person at Lucknow shall be relieved every three months, and during its stay there shall act solely and exclusively under your orders." And it appears, in the course of the company's correspondence, that the country troops, under the nabob's sole direction, would be ill-disciplined and unserviceable, if not worse; and therefore the said Warren Hastings did order, that "no infantry should be kept in his service;" yet it appears that the said Warren Hastings did make an arrangement for a body of native troops, wholly out of the control or inspection of the British government, and left a written order in the hands of Major Palmer (one of *his* agents, who had been continued there, though the company was not permitted to employ any) to be transmitted to Colonel Cumming, as soon as an adequate force shall be provided for the defence of the nabob's frontier by detachments from the nabob's own battalions; the said Colonel Cumming's forces, whom the others were to supersede and replace, consisting wholly of infantry, and which, being intended for the same service, were probably of the the same constitution.

LXXXV.—That the old brigade of British troops, which by treaty was to remain, had been directed, by the instructions of the said Hastings to the resident Middleton, and to the resident Bristow, "not to be employed at the requisition of the vizier otherwise than through the resident;" and the said direction was properly given, it not being fit that British troops should be under the sole direction of foreign independent princes or of any other than the British government; yet, notwithstanding the proper and necessary direction aforesaid, he, the said Warren Hastings, hath left the said troops, by his new treaty, without any local control, or even inspection, notwithstanding his powers under the treaty of Chunar, and his own repeated orders, and notwithstanding the mischiefs and dangers which the said Warren Hastings did foresee would result therefrom, if left under the sole direction of the nabob, and their own discretion, the said Hastings having stipulated with the said nabob not to exercise any authority, or even influence secret or avowed, within his dominions.

LXXXVI.—That the crime of the said Warren Hastings, in attempting thus to abandon the British army to the sole discretion of the nabob of Oude, is exceedingly aggravated by the description given by him severally of the said nabob of Oude, and of the British army stationed for the defence of his dominions; in his letters to the court of directors, and in his minutes of consultation, and particularly in his letter of——

immediately on the accession of the nabob, he did inform the said court, "that the nabob had not, by all accounts, the qualities of the head or heart which fitted him for that office, though there was no dispute concerning his right to succeed;" and some years afterwards, when his accounts must have been rendered more certain, he did, in his minute of consultation, of the 15th of December, 1779, (regularly transmitted to the court of directors) upon a discussion for withdrawing certain troops, kept up in the nabob's country without his consent, by him, the said Warren Hastings, strongly urge as follows, "the *necessity* of maintaining the influence and force which we possess in the country; that the disorders of his state [the nabob of Oude's state] and dissipation of his revenues are the effects of his own conduct, which has failed, not so much from the usual effects of *incapacity*, as from the detestable choice he has made of the ministers of his power, and the participation of his confidence. I forbear to

expatiate further on his character; it is sufficient, that I am understood by the members of this board, who must know the truth of my allusions. Mr. Francis [a member of the board] surely was not aware of the injury he did me [Warren Hastings] by attributing to the spirit of party the character I gave Asuph ul Dowla [the nabob of Oude;] he himself knows *it to be true; and it is one of those notorieties which superseede the necessity of any evidence. I was forced to the allusion I made by the imputation cast on this government, as having caused the evils which prevail in the government of the nabob of Oude, which I could only answer by ascribing them to their true cause, the character and conduct of the nabob of Oude.*" And the resident (appointed by the said Hastings against the orders of the court of directors) as his particular confidential representative, one whom the said nabob did himself request might be continued with him, *by an engagement in writing for ever*, did some time before, that is on the 3d of January, 1779, assure the said Hastings and the council-general, "that such is his excellency's [the nabob of Oude's disposition, and so entirely has he lost the confidence and affections of his subjects, that unless some restraint is imposed on him, which would effectually secure those who live under the protection of his government, from violence and oppression, I am but too well convinced that no man of reputation or property will long continue in these provinces." And that the said resident proceeds to an instance of oppression and rapine, "out of *many* of the nabob's, which has caused a total disaffection and want of confidence among his subjects; he hoped the board would take it into their humane consideration, and interpose their *influence*, and prevent an act which would inevitably bring disgrace upon himself, and a proportionable degree of discredit on the national character of the English which I consider to be more or less concerned in every act of his administration."

LXXXVII.—That no exception was ever taken by the said Warren Hastings to the truth of these facts, or to the justness of the observation of the said resident, which he did transmit to the court of directors. And the said Warren Hastings, in his letter from Chunar, dated the 29th of November, 1781, speaking of the restraints which had been put by him the said Hastings on the nabob, relative to his own mootiana, or forces for collection and police, the necessity of giving the resident a control in the nomination of the officers of his army, has asserted, "that the necessity of the reservation arose from a too well known defect in the nabob's character; if this *check* be withdrawn, and the choice left absolutely to the nabob, the first commands in his army will be filled with the most worthless and abandoned of his subjects; his late commander-in-chief is a signal and scandalous instance of this."

LXXXVIII.—And the said Warren Hastings, in his letter to the court of directors, dated Benares the 15th of October, 1784, even after he had made the aforesaid renunciation of the company's authority and influence to the nabob, did write, "that the nabob, though most gentle in his manners, and endued with an understanding much above the common level, has been *unfortunately bred up in habits* that draw his attention too much from his own affairs, and often subject him to the guidance of *insidious and unworthy confidants*;" which, though more decently expressed with regard to the nabob than in his former minutes, substantially agrees with them. And the said Warren Hastings did inform the court of directors, after he had solemnly covenanted to withdraw all the company's influence on the assurances and promises of a person so by himself described, that for reasons grounded on his knowledge of the imbecility of the character of the nabob, he waited in a frontier town, "that he might be at hand to counteract any attempt to defeat the effect of his proceedings at Lucknow;" and in his letter to Mr. Wheler from the same place, he did write in the following words; "I am still near enough to attend to the first effects of the execution, and to interfere with my influence for the removal of any obstructions to which they are or may be liable." He therefore found that there was none, or but an insufficient security to the effect of his treaty, but in his own direct personal violation of it. What otherwise was wanting in the security for the nabob's engagements was to be supplied as follows; "the most respectable persons of his family will be employed to counteract every other, which may tend to warp him from it: and I am sorry to say, *that such assistance was wanting*." And in another letter, "that he had equal ground to expect every degree of support, which could be given it by the *first characters of his family*, who are warmly and zealously interested in it:" the principal male character of the family, and of the most

influence in that family, being *Salar Jung*, uncle to the nabob; and the first female characters of the family being the mother and grandmother of the reigning sovereign, all of whom, male and female, he, the said Warren Hastings, in sundry letters of his own, in the transmission of various official documents, and even in affidavits studiously collected, and sworn before Sir Elijah Impey during his short residence at Lucknow and Benares, did himself represent as persons entirely disaffected to the English power in India, as having been principal promoters, if not original contrivers, of a general rebellion and revolt for the utter extirpation of the English nation; and as such, he, the said Warren Hastings, did compel the nabob reluctanly to take from them their landed estates; and yet the said Warren Hastings has had the presumption to attempt to impose on the East-India company, by pretending to place his reliance on those three persons for a settlement favourable to the company's interests, on his renunciation of all their power, authority, and influence, and on his leaving their army to the sole and uncontrolled discretion of a stranger, meriting in his opinion the description given by him as aforesaid, as well as by him frequently asserted to be politically incapable of supporting his own power without the aid of the forces of the company. And the offence of the said Warren Hastings, in abandoning a considerable part of the British army in the manner aforesaid, is much increased by the description which he has himself given of the state of the said army, and particularly of that part thereof which is stationed in the nabob of Oude's dominions. For he did himself, on the 29th of November, 1781, transmit the information following, on that subject, to the court of directors, namely, "that the remote stations of those troops, placing the commanding officers beyond the notice and control of the board [the council-general at Calcutta, afforded too much opportunity and temptation for unwarrantable *emoluments, and excited the contagion of peculation and rapacity throughout the whole army;* a most remarkable instance, and uncontrovertible proof of the prevalence of this spirit, has been seen in the court-martial upon Captain Erskine, where the court, composed of officers of rank and respectable characters, unanimously and honourably (*most* honourably,) upon an acknowledged fact, acquitted him, which in times of stricter discipline would have been deemed a crime deserving the severest punishment." From which representation (if the said Warren Hastings did not falsely and unjustly accuse and slander the company's service) it appeared, that the peculation which infected the whole army, derived from the taint which it had in Oude, and so fatal to the discipline of the troops, would be dangerously increased by his treaty and agreement aforesaid with the nabob, and by his own said evil counsel to the court of directors

LXXXIX.—That it appears, that after the said Warren Hastings had, on grounds so disgraceful to the British nation and government, agreed to remove for ever the British influence and interference from the government of Oude, on account of the disorders in the said government, solely produced by his own criminal acts and criminal connivances, that he did overturn his own settlement as soon as he had made it; and did, after he had abolished the company's residency as a grievance, wholly violate his own solemn agreement; for he did, for his private purposes, continue therein his own private agent, Major Palmer, a number of officers and pensioners, at a charge to the revenues of the country greatly exceeding that of the establishment under Mr. Bristow, which he did represent as frightfully enormous, and which he pretended to remove; the former amounting to 112,950*l.*, the latter only to 64,202*l.*

XC.—That his own secret agent, Major Palmer, did receive a salary or allowance equal to 22,800*l.* a year out of the distressed province of Oude; and this the said Palmer did declare not to be more than he absolutely did, really and *bonâ fide* spend; and that he had retrenched considerably "in some of the articles, since the expense has been borne by the vizier, and in every particular he made as little parade and appearance as his station would admit," his station being that of the said Warren Hasting's private agent. But if the said large salary must be considered as merely equal to the expenses, large secret emoluments must be presumed to attend it in order to make it a place advantageous to the holder thereof. That the said Palmer did apply to the board at Calcutta for a new authority to continue the same establishments, he conceiving their continuance "after the period of the governour-general's departure, depended upon the pleasure of the board, and not upon the *authority of the governour-general, under the sanction of which they were established or confirmed.*"

XCI.—That the said Warren Hastings, in order to ruin the resident Bristow, and to justify himself for his former proceedings respecting him, did bring before the board a new charge against him for having paid a large establishment of offices and pensions to the company's servants from the revenues of Oude; and the said Bristow, in making his defence against the charge aforesaid, did plead, that he had found all the allowances on his list established before his last appointment to the residency; that they had grown to that excess in the interval between his first removal by the said Warren Hastings, and his re-appointment; and having adduced many reasons to make it highly probable that the said Hastings was perfectly well acquainted with it, and did approve of the expensive establishments, which he, the said Bristow, simply had paid, but not imposed, he did allege, besides the official assurances of his predecessour Middleton, certain facts, as amounting to a direct proof that the governour-general, Warren Hastings, was not averse to the vizier's granting large salaries to more than one European gentleman; and the first instance was to Mr. Thomas, a surgeon, who, exclusive of his pay from the company, which was 1,440*l.* a year, claimed from the vizier, with Mr. Hastings's knowledge, the sum of 9,763*l.* a year, and upwards, making together 11,203*l.* per annum.—The next was Mr. Trevor Wheler, who did receive upon the same establishment, when he was fourth assistant at Oude, 6,000*l.* a year; and which last fact the said Hastings has admitted upon record, "that the accusations of Mr. Bristow and Mr. Cowper did *oblige* and *compel* him to acknowledge," denying at the same time that the allowances of the residents Middleton and Bristow, except in this single instance, were ever authorized by him; whereas his own agent Palmer did, in his letter of the 27th of March, 1785, represent that the said salaries and allowances (if not more and larger) were by him authorized or confirmed.

XCII.—That the aforesaid Bristow did also produce the following letter in proof that Mr. Hastings knew and approved of large salaries to British subjects upon the revenues of Oude, and which he did declare that nothing but the necessity of self-defence could have induced him to produce.

"Dear Bristow.

"Sir Eyre Coote has some field-allowances to receive from the vizier; they amount to sicca rupees 15,554 per month, and he has been paid up by the vizier to the 20th of August, 1782. The governour has directed me to write to you, to request you to receive what is due from the vizier from the 20th August last, at the rate of Lucknow sicca rupees 15,554 per month, and send me a bill for the amount, the receipt of which I will acknowledge in the capacity of Sir Eyre Coote's attorney; and the governour desires that you will continue to receive Sir Eyre Coote's field-allowances at the same rate, and remit the money to me as it comes in.

(Signed) "CHARLES CROFTES."

"*Calcutta, January* 25, 1783."

XCIII.—That Sir Eyre Coote aforesaid was, at the time of the said field-allowances not serving in the country of Oude, on which the said allowances were charged, but in the Carnatic.

XCIV.—That from the declaration of the said Hastings himself, that it was the conviction of Mr. Bristow and Mr. Cowper, that could alone *oblige* and *compel* him to *acknowledge* certain of his aforesaid practices, and that nothing *but the necessity of self-defence* could have induced Mr. Bristow to make public another, and much stronger, instance of the same, it is to be violently presumed, that where these two, or either, or both, necessities did not exist, many evil and oppressive practices of the said Hastings do remain undiscovered. That if it had not been for the contests between him, the said Hastings, and the resident Bristow, not only the before-mentioned particulars, but the whole of the expensive civil establishments for English servants at Oude, would have been for ever concealed from the directors and from Parliament; and yet the said Hastings has had the audacity to pretend so complete an ignorance of the facts, that representing the vizier as objecting to the largeness of the payments made by Bristow, and stating a very reduced list, which he was willing to allow for, amounting to 30,000*l.* a year, the said Hastings did affect to be alarmed at the magnitude even at the list so curtailed, expressing himself as follows, in his minute of the 7th December, 1784: "for my own part, when the vizier's minister first informed me that the amount which his master had authorized, and was willing to admit, for the charges of the residency, and the allowances of the gentlemen at Lucknow, was 25,000 rupees per month, I own I was startled

at the magnitude of the sum, and was some days hesitating in my mind whether I could with propriety admit of it." Whereas he well knew that the three sums alone, of which the necessities aforesaid had compelled the discovery, did greatly exceed that sum, of which, at the first hearing, he affects to have been so exceedingly alarmed, and thrown into a state of hesitation, which continued for some days; and although he, the said Hastings was conscious that he had at the very time authorized an establishment to more than four times the amount thereof.

XCV.—That in the said deceits, prevarications, contradictions, malicious accusations, fraudulent concealments, and compelled discoveries, as well as in the said secret, corrupt, and prodigal disposition of the revenues of Oude, as well as in his breach of faith to the nabob in continuing expensive establishments under a private agent of his own, after he had agreed to remove the company's agent, the said Warren Hastings is guilty of a high offence and misdemeanour

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XVII. MAHOMED REZA KHAN.

I.—THAT it was the declared policy of the company, on the acquisition of the duannee of Bengal, to continue the country-government under the inspection of the resident at the nabob's durbar, in the first instance, and that of the president and council in the last; and for that purpose they did stipulate to assign, for the support of the dignity of the nabob, an annual allowance from the revenues, equal to four hundred thousand pounds a year.

II.—That during the country-government, the principal active person in the administration of affairs for rank and for reputation of probity, and of knowledge in the revenues and the laws, was Mahomed Reza Khân, who, besides large landed property, was possessed of offices, whose emoluments amounted nearly, if not altogether, to one hundred thousand pounds a year.

III.—That the company's servants, in the beginning, were not conversant in the affairs of the revenue, and stood in need of natives of integrity and experience to act in the management thereof. On that ground, as well as in regard to the rank which Mahomed Reza Khân held in the country, and the confidence of the people in him, they, the president and council did inform the court of directors, in their letter of the 30th of September, 1765, that "as Mahomed Reza Khân's short administration was irreproachable, they determined to continue him in a share of the authority;" and this information was not given lightly, but was founded upon an inquiry into his conduct, and a minute examination of charges made against him by his rivals in the nabob's court; they having insinuated to the nabob, that a design was formed for deposing him, and placing Mahomed Reza on his throne; but on examination the president and council declare, that "he had so openly and candidly accounted *for every rupee* disbursed from the treasury, that they could not, without injury to his character, and injustice to his conduct, during his short administation, refuse continuing him in a share of the government."

V.—That the company had reason to be satisfied with the arrangement made, so far as it regarded him; the president and council having informed them in the following year, in their letter of the 9th of December, 1766, that "the *large* increase of the revenue must in a great measure, be ascribed to Mr. Sykes's assiduity, and to *Mahomed Reza Khân's profound knowledge in the finances.*"

VI.—That the then president and council, finding it necessary to make several reforms in the administration, were principally aided in the same by the suggestion, advice and assistance of the said Mahomet Reza Khân; and in their letter to the court of directors of the 24th of June, 1767, they state their resolution of reducing the emoluments of office, which before had arisen from a variety of presents, and other perquisites, to fixed allowances; and they state the merits of Mahomed Reza Khân therein, as well as the importance, dignity, and responsibility of his station, in the following manner:

"Mahomed Reza Khân has now *of himself with great delicacy of honour*, represented to us the evil consequences that must ensue from the continuance of this practice; since, by suffering the principal officers of the government to depend for the support of their dignity on the precarious fund of perquisites, they, in a manner, oblige them to pursue oppressive and corrupt measures, equally injurious to the country and the company;

and they accordingly assigned twelve lacks of rupees for the maintenance and support of the said Mahomed Reza Khân, and two other principal persons, who held in their hands the most important employments of that government; having regard to their elevated stations, and to the expediency of supporting them in all the show and parade requisite to keep up the authority and influence of their respective offices, as they are all men of weight and consideration in the country, who held places of great trust and profit under the former government. We further propose, by this act of generosity, to engage their cordial services, and confirm them steady in our interests, since they cannot hope, from the most successful ambition, to rise to greater advantages by any chance or revolution of affairs. At the same time it was reasonable we should not lose sight of Mahomed Reza Khân's past services; he has pursued the company's interest with steadiness and diligence; his abilities qualify him to perform the most important services. The unavoidable charges of his particular situation are great; in dignity he stands second to the nabob only; and as he engages to increase the revenues, without injustice or oppression, to more than the amount of his salary, *and to relinquish those advantages to the amount of eight lacks of rupees per annum*, which he heretofore enjoyed, we thought it proper, in the distribution of salaries, to consider Mahomed Reza Khân in a light superiour to the other ministers. We have only to observe further, that great and enormous as the sums must appear which we have allotted for the support of the ministers of government, we will not hesitate to pronounce that it is necessary and reasonable, and will appear so on the consideration of the power, which men employed on these important services have, either to obstruct or promote the public good, unless their integrity be confirmed by the ties of gratitude and interest."

VII.—That the said Mahomed Reza Khân continued with the same diligence, spirit, and fidelity, to execute the trust reposed in him, which comprehended a large proportion of the weight of government, and particularly of the collections; and his attachment to the interest of the company, and his extensive knowledge, were again, in the course of the year 1767, fully acknowledged, and stated to the court of directors; and it further appears, that by an incessant application to business, his health was considerably impaired, which gave occasion in the year following, that is, in February, 1768, to a fresh acknowledgment of his services, in these terms: "we must in justice to Mahomed Reza Khân, express the high sense we entertain of his abilities, and of the indefatigable attention he has shown in the execution of the important trust reposed in him; and we cannot but lament the prospect of losing his services from the present declining state of his health."

VIII.—That as, in the increase of the revenue, the said Mahomed Reza Khân was employed as a person likely to improve the same without detriment to the people, so, when the state of any province seemed to require a remission, he was employed as a person disposed to the relief of the people without fraud to the revenue; and this was expressed by the president and council as follows, with relation to the remissions granted in the province of Bahar; "that the general knowledge of Mahomed Reza Khân, in all matters relative to the Duannee revenues, induced us to consent to such deductions being made, from the general state of that province at the last poonah, as may be deemed irrecoverable, or such as may procure an immediate relief and encouragement to the ryots in the future cultivation of their lands."

IX.—That the said Mahomed Reza Khân, in the execution of the said great and important trusts and powers, was not so much as suspected of an ambitious or encroaching spirit, which might make him dangerous to the company's, then recent authority, or which might render his precedence injurious to the consideration due to his colleagues in office; but, on the contrary, it appears that a plan having been adopted for dividing the administration, in order to remove the nabob's jealousies, the same was in danger of being subverted by the ambition "of two of his colleagues, and the *excessive moderation of Mahomed Reza Khân*." And for a remedy of the inconveniences which might arise from the excess of an accommodating temper, though attended with irreproachable integrity, the president and council did send one of their own members, as their deputy, to the nabob of Bengal, at his capital of Muxadavad; and this measure appears to have been adopted for the support of Mahomed Reza Khân, in consequence of an inquiry made, and advice

given, by Lord Clive, in his letter of the 3d of July, 1765; in which letter he expresses himself of the said Mahomed Reza Khân as follows; "It is with pleasure I can acquaint you, that the *more I see of Mahomed Reza Khân, the stronger is my conviction of his honour and moderation*; but that, at the same time, I cannot help observing, that either from timidity, or an erroneous principle, he is too ready to submit to encroachments upon that proportion of power that has been allotted him.

X.—That the nabob Jaffier Ali Khân dying in February, 1765, Mahomed Reza Khân was appointed guardian to his children, and administrator of his office, or regent, which appointment the court of directors did approve. But the party opposite to Mahomed Reza Khân having continued to cabal against him, sundry accusations were framed, relative to oppression at the time of the famine, and for a balance due during his employment of collector of the revenues; upon which the directors did order him to be deprived of his office, and strict inquiry to be made into his conduct.

XI.—That the said Warren Hastings, then lately appointed to the presidency, did, on the 1st of April, and on the 24th of September, 1772, write letters to the court of directors, informing them, that on the very next day after he had received (as he asserts) their private orders, "addressed to himself alone," and not to the board, he did despatch, by express messengers, his orders to Mr. Middleton, the resident at the nabob's court at Muxadavad, in a public character and trust with the nabob, to arrest in his capital, and at his court, and without any previous notice given of any charge, his principal minister, the aforesaid Mahomed Reza Khân, and to bring him down to Calcutta; and he did carefully conceal his said proceedings from the knowledge of the board, on pretext of his not being acquainted with their dispositions, and the influence which he thought that the said Mahomed Reza Khân had amongst them.

XII.—That the said Warren Hastings, at the time he gave his orders as aforesaid for arresting the said Mahomed Reza Khân, did not take any measures to compel the appearance of any other persons as witnesses, declaring it as his opinion, "that there would be little need of violence to obtain such intelligence, as they could give against their former master, when his authority is taken from him;" but he did afterwards, in excuse for the long detention and imprisonment of the said Mahomed Reza Khân, without any proofs having been obtained of his guilt, or measures taken to bring him to trial, assure the directors, in direct contradiction to his former declaration, "that the influence of Mahomed Reza Khân still prevailed generally throughout the country, in the nabob's household, and at the capital, and was scarcely affected by his present disgrace,"—notwithstanding, as he, the said Hastings, doth confess, he had used his utmost endeavours "to break that influence, by removing his dependants, and putting the direction of all the affairs, that had been committed to his care, into the hands of the *most powerful or active of his enemies*; that he depended on the activity of their hatred to Mahomed Reza Khân, incited by the expectation of rewards, for investigating the conduct of the latter; that with this the institution of the new duannee coincided, and that the same principle had guided him in the choice of Munny Begum and Rajah Gourdas, the former for the chief administration, the latter [the son of Nundcomar, and a mere instrument in the hands of his father] for the duannee of the nabob's household, both the *declared enemies* of Mahomed Reza Khân."

XIII.—That although it might be true that enemies will become the most active prosecutors, and as such may, though under much guard and many precautions, be used even as witnesses; and that it ought not to be an exception, supposing their character and capacity otherwise good, to the appointing them to power; yet to advance persons to power on the ground not of their honour and integrity, which might have produced the enmity of bad men, but merely for the enmity itself, without any reference whatsoever to a laudable cause, and even with a declared ill opinion of the morals of one of the party, such as was actually delivered in the said letter by him, the said Hastings, of Nundcomar (and which, time has shown, he might also on good ground have conceived of others) was, in the circumstances of a criminal inquiry, a motive highly disgraceful to the honour of government, and destructive of impartial justice, by holding out the greatest of all possible temptation to false accusation, to corrupt and factious conspiracies to perjury, and to every species of injustice and oppression.

XIV.—That in consequence of the aforesaid motives, and others pretended, which were by no means a sufficient justification to the said Warren Hastings, he did appoint the woman aforesaid, called Munny Begum, who had been of the lowest and most discreditable order in society, according to the ideas prevalent in India, but from whom he received several sums of money, to be guardian to the nabob in preference to his own mother, *and to administer the affairs of the government* in the place of the said Mahomed Reza Khân, the second Mussulman in rank after the nabob, and the first in knowledge, gravity, weight, and character among the Mussulmen in that province. And in order to try every method and to take every chance for his destruction, the said Warren Hastings did maliciously and oppressively keep him under confinement, for a part of the time without any inquiry, and afterwards, with a slow and dilatory trial, for two years together.

XV.—That notwithstanding a total revolution in the power, in part avowedly made for his destruction, the persons appointed for his trial, did, on full inquiry, completely acquit the said Mahomed Reza Khân of the criminal charges against him, on account of which he had been so long persecuted and confined, and suffered much in mind, body, and fortune; and the court of directors, in their letter of the 3d March, 1775, testify their satisfaction in the conduct and result of the said inquiry, and did direct the restoration of the said Mahomed Reza Khân to liberty, and to the offices which he had lately held, which comprehended the management of the nabob's household, and the general superintendency of the justice of Bengal; but according to the orders of the court of directors, his appointments were reduced to thirty thousand pounds a year, or thereabouts, of which he did make grievous complaint on account of the expenses attendant on his station, and the heavy debts which he had been obliged to contract during his unjust persecution and imprisonment aforesaid.

XVI.—That on the removal of the said Mahomed Reza Khân, from the superintendency of the criminal justice, and in consequence of letting the province of Bengal in farm by the said Warren Hastings, several dangerous and mischievous innovations were made by him, the said Warren Hastings, and the criminal justice of the country was almost wholly subverted, and great irregularities and disorders did actually ensue.

XVII.—That the council-general, established by act of Parliament in the year 1773, did restore the said Mahomed Reza Khân with the consent and approbation of the nabob (but under a protest from the said Warren Hastings) to his liberty and to his offices, according to the spirit of the orders given by the court of directors as aforesaid; and the court of directors did approve of the said appointment, and did assure the said Mahomed Reza Khân of their favour and protection, as long as his conduct should merit the same, in the following terms: "as the abilities of Mahomed Reza Khân have been sufficiently manifested; as official experience qualifies him for so high a station in a more eminent degree than any other native with whom the company has been connected; and as no proofs of mal-administration have been established against him, either during the strict investigation of his conduct, or since his retirement, we cannot under all circumstances but approve your recommendation of him to the nabob, constitute him his naib. We are well pleased that he has received that appointment, and authorize you to assure him of our favour, so long as a firm attachment to the interest of the company, and a proper discharge of the duties of his station shall render him worthy of our protection." And the said Mahomed Reza Khân did continue to execute the same, without any complaint whatsoever of malversation or negligence, in any manner or degree, in his said office.

XVIII.—That in March, 1778, the said Warren Hastings, under colour, that the nabob had completed his twentieth year, and had desired to be placed in the entire and uncontrolled management of his own affairs, and that Mahomed Reza Khân should be removed from his office, and that Munny Begum his step-mother, the dancing girl aforesaid, "should take on herself the management of the nizamut [the government and general superintendency of criminal justice] without the interference of any person whatsoever;" and, notwithstanding the contradictions in the pretended applications from the nabob, with whose incapacity for all affairs he was well acquainted, did, in defiance of the orders of the court of directors, and without regard to the infamy of an arrangement made for the evident and declared purpose of delivering not

only the family with the prince, but the government and justice of a great kingdom, into such insufficient, corrupt, and scandalous hands; and though he has declared his opinion, "that our national character is concerned in the character which the nabob may obtain in the public opinion," on obtaining a majority in council, without any complaint, real or pretended, to remove the said Mahomed Reza from all his offices, and did partition his salary as a spoil in the following manner:—to Munny Begum, the dancing girl aforesaid, an additional allowance of seventy-two thousand rupees [7,200*l.*] a year; to the nabob's own mother, but half that sum, that is to say, 36,000 rupees [3,600*l.*] a year; to Rajah Gourdas, son of Nundcomar (whom he had described as a weak young man) 72,000 rupees [7,200*l.*] a year, as comptroller of the household; and to a magistrate called Sudder ul Hock, who in real subserviency to the said Munny Begum was nominally to act in the department of criminal justice 78,000 [7,800*l.*] a year; the total of which allowances exceeding the salary of Mahomed Reza Khân by 18,000 rupees [1,800*l.*] yearly, he did, for the corrupt and scandalous purposes aforesaid, order the same to be made up from the company's treasury.

XIX.—That Mr. Francis and Mr. Wheler having moved that the execution of the aforesaid arrangement, the whole expense of which, ordinary, and extraordinary, was charged upon the company's treasury, and therefore could not be even colourably disposed of at the pretended will of the said nabob, might be suspended until the pleasure of the court of directors thereon should be known; and the same being resolved agreeably to law by a majority of the council then present, the said Hastings, urging on violently the immediate execution of his corrupt project, and having obtained, by the return of Richard Barwell, Esquire, a majority in council in his own casting vote, did rescind the aforesaid resolution, and did carry into immediate execution the aforesaid most unwarrantable, mischievous, and scandalous design.

XX.—That the consequences, which might be expected from such a plan of administration, did almost instantly flow from it. For the person appointed to execute one of the offices, which had been filled by Mahomed Reza Khân, did soon find that the eunuchs of Munny Begum began to employ their power, with superiority and insolence in all the concerns of government, and the administration of justice, and did endeavour to dispose of the offices relative to the same for their corrupt purposes, and to rob the nabob's servants of their due allowances; and in his letter of the 1st September, 1778, he sent a complaint to the board, stating "that certain bad men had gained an ascendency over the nabob's temper, by whose instigation he acts." And after complaining of the slights he received from the nabob, he adds, "thus they cause the nabob to treat me sometimes with indignity, at others with kindness, just as they think proper to advise him; their view is, that, by compelling me to displeasure at most unworthy treatment, they may force me either to relinquish my station, or to join with them, and act by their advice, and appoint creatures of their recommendation to the different offices, from which they might draw profit to themselves."

XXI.—That, in a subsequent letter to the governour, the said superintendent of justice did inform him, the said Warren Hastings, of the audacious and corrupt manner in which, by violence, fraud, and forgery, the eunuchs of Munny Begum had abused the nabob's name, to deprive the judicial and executory officers of justice of the salaries, which they ought to have drawn from the company's treasury, in the following words:—"The begum's ministers, before my arrival, with the advice of their counsellours, caused the nabob to sign a receipt, in consequence of which they received, at two different times, near 50,000 rupees [5,000*l.*] in the name of the officers of the adawlut, fousdary, &c. from the company's circars; and having drawn up an account current *in the manner they wished*, they had got the nabob to sign it, and sent it to me." And in the same letter he asserts, "that these people had the nabob entirely in their power."

XXII.—That the said Warren Hastings, upon this representation, did, notwithstanding his late pretended opinion of the fitness and the right of the nabob to the sole administration of his own affairs, authoritatively forbid him from any interference therein, and ordered, that the whole should be left to the magistrate aforesaid; to which the nabob did, notwithstanding his pretended independence, yield an immediate and unreserved submission; for the said Hastings's order being given on the first of September at Calcutta, he received *an answer* from Muxadavad on the

third, in the following terms:—"Agreeably to your pleasure I have relinquished all concern with the affairs of the fousdary and adawlut, leaving the entire management in Judder ul Hock's hands." Which said circumstance, as well as many others, abundantly proves that all the nabob's actions were, in truth and fact, entirely governed by the influence of the said Hastings; and that however the said Hastings may have publicly discouraged the corrupt transactions of the said court, yet he did secretly uphold the authority and influence of Munny Begum, who did entirely direct with his knowledge and countenance, all the proceedings therein. For,

XXIII.—That on the 13th of the same month of September he did receive a further complaint of the corrupt and fraudulent practices of the chief eunuch of the said Munny Begum; and these corrupt practices did so continue and increase, that on the 10th of October, 1778, he was obliged to confess, in the strongest terms, the pernicious consequences of his before-created unwarrantable and illegal arrangements; for, in a letter of that date to the nabob, he expresses himself as follows: "At your excellency's request, I sent Sudder ul Hock Khân to take on him the administration of the affairs of the adawlut and fousdary, and hoped by that means not only to have given satisfaction to your excellency, but that, through his abilities and experience, these affairs would have been conducted in such manner as to have secured the peace of the country, and the happiness of the people; and it is with the greatest concern I learn, that this measure is so far from being attended with the expected advantages, that the affairs both of the fousdary and adawlut are in the greatest confusion imaginable, and daily robberies and murders are perpetrated throughout the country. This is evidently owing to the want of a proper authority in the person appointed to superintend them. I therefore addressed your excellency on the importance and delicacy of the affairs in question, and of the necessity of lodging full power in the hands of the person chosen to administer them; in reply to which your excellency expressed sentiments coincident with mine; notwithstanding which, your dependants and people, actuated by *selfish and avaricious views, have by their interference so impeded the business, as to throw the whole country into a state of confusion; from which nothing can retrieve it but an unlimited power, lodged in the hands of the superintendent.* I therefore request that your excellency will give the strictest injunctions to all your dependants, not to interfere in any manner with any matter relative to the affairs of the adawlut and fousdary; and that you will yourself relinquish all interference therein, and leave them entirely to the management of Sudder ul Hock Khân: this is absolutely necessary to restore the country to a state of tranquillity." And he concluded by again recommending the nabob to withdraw all interference with the administrator aforesaid; "otherwise a measure, which I adopted at your excellency's request, and with a view to your satisfaction, and the benefit of the country will be attended with quite contrary effects, and bring discredit on me."

XXIV.—That the said Hastings, in the letter aforesaid, in which he so strongly condemns the acts, and so clearly marks out the mischievous effects of the corrupt influence, under which alone the nabob acted, and under which alone, from his known incapacity, and his dependence on the person supported by the said Hastings, he could act, did propose to put all the offices of justice (which on another occasion he had requested him to *permit* to remain in the hands which then held them) into his own disposal; telling him, or rather the woman and eunuchs who governed him, "that if his excellency has any plan for the management of the affairs in future, be pleased to communicate it to me, and every attention shall be paid to give your excellency satisfaction." By which means not only particular parts, as before, but the whole system of justice was to be afloat and to be subject to the purposes of the aforesaid corrupt cabal of women and eunuchs.

XXV.—That the court of directors, on receiving an account of the above arrangements, and being well apprized of the spirit, intention, and probable effect of the same, did, in a clear, firm, and decisive manner, express their condemnation of the measure, and their rejection and reprobation of all the pretended grounds and reasons on which the same was supported; marking distinctly his prevarication and contradictions in the same, and pointing to him their full conviction of the unworthy motives on which he had made so shameful an arrangement; telling him, in the 17th paragraph of their general letter, of the 4th of February, 1779, "the nabob's letters of the 25th and 30th of August, of the 3d of September, and 17th of November, leave us

no doubt of the *true* design of this *extraordinary* business being to *bring forward* Munny Begum, and again to invest her with improper power and influence, notwithstanding our former declaration, that so *great* a part of the nabob's allowance had been embezzled and misapplied under her superintendence."

XXVI.—That in consequence of the censure and condemnation of the unwarrantable measures of the said Warren Hastings by the court of directors on the aforesaid and other weighty and substantial grounds, they did order and direct as follows, in the 20th paragraph of the general letter of the same date: "As we deem it for the welfare of the country, that the office of naib soubadar be for the present continued, and that this high office should be filled by a person of wisdom, experience, and of approved fidelity to the company; and as we have no reason to alter the opinion given of Mahomed Reza Khân, in our letter of 24th of December, 1776; we positively direct, that you forthwith signify to the nabob, Mobarek ul Dowla, our pleasure, that Mahomed Reza Khân be immediately restored to the office of naib soubadar; and we further direct, that Mahomed Reza Khân be again assured of the continuance of our favours, so long as a firm attachment to the interests of the company, and a proper discharge of the duties of his station, shall render him worthy of our protection."

XXVII.—That the aforesaid direction did convey in it such evident and cogent reason, and was so far enforced by justice to individuals, and by regard to the peace and happiness of the natives, as well as by the common decorum to be observed in all the transactions of government, that the said Hastings ought to have yielded a cheerful obedience thereto, even if he had not been by a positive statute, and his relation of servant to the company, bound to that just submission. Yet the said Hastings did, without denying or evading any one of the reasons assigned by the court of directors, or controverting the scandalous motives assigned by them for his conduct, contumaciously refuse obedience to the above positive order, on pretence that the nabob, who, he had declared it on record, "to be as visible as the light of the sun, is a mere pageant, and without even the shadow of authority," did dissent from the same; and he did encourage the said nabob or rather the eunuchs, the corrupt ministers of Munny Begum, to oppose himself and themselves to the authority of the said court of directors; by which means the arrangement, three times either ratified or expressly ordered by them, was wholly defeated; the aforesaid corrupt system was continued; Mahomed Reza Khân was not restored to his office; and a lesson was taught to the natives of all ranks, that the declared approbation, the avowed sanction, and the decided authority of the court of directors were wholly nugatory to their protection against the corrupt influence of their servants.

XXVIII.—That the said Warren Hastings, on a reconciliation with Mr. Francis, one of the council-general, who made it a condition thereof, that certain of the company's orders should be obeyed, and that Mahomed Reza Khân should be restored to his offices, did, a considerable time after, notwithstanding the pretended reluctance of the nabob, and his pretended freedom, make, for his convenience in the said accommodation, the arrangement, which he had unwarrantably and illegally refused to the orders of the court of directors; and did, of his own authority and that of the board, restore Mahomed Reza Khân to his offices.

XXIX.—That soon after the departure of the said Mr. Francis he did again deprive the said Mahomed Reza Khân of his said offices, and did make several great changes in the constitution of the criminal justice in the said country; and after having, under pretence of the nabob's sufficiency for the management of his own affairs, displaced, without any specific charge, trial, or inquiry whatsoever, the said Mahomed Reza Khân, he did submit the said nabob to the entire direction, in all parts of his concerns, of a resident of his own nomination, Sir John Doyley, Bart., and did order an account of the most minute parts of his domestic economy to be made out, and to be delivered to the said Sir John Doyley, in the following words, contained in a paper by him entitled, INSTRUCTIONS from the governour-general to the Nabob Mobarek ul Dowla, respecting his conduct in the management of his affairs: "you will be pleased to direct your mutta seddies to form an account of the fixed sums of your monthly expenses, such as servants wages in the different departments, pensions, and other allowances, as well as of the estimated amount of variable expenses, to be delivered to Sir John Doyley, *for my inspection*. I have given such orders to Sir John Doyley as will enable him to propose to you such reductions of

the pensions and other allowances, and such a distribution of the variable expenses, as shall be proportionable to the total sum of your monthly income; *and I must request you will conform to it.*" And he did, in the subsequent articles of his said instructions, order the whole management to be directed by the said Sir John Doyley, subject to his own directions, as aforesaid; and did even direct what company he should keep; and did throw reflections on some persons, in places the nearest to him, as of bad character and base origin—persons, whom he should decline to name as such, "unless he heard that they still availed themselves of his goodness to retain *the places* which they improperly hold near his person." And he did particularly order the said nabob not to admit any English, but such as the said Sir John Doyley should approve, to his presence; and did repeat the said order in the following peremptory manner: "you *must forbid any* person of *that nation* to be intruded into *your* presence, without *his* introduction." And he did require his obedience in the authoritative style: "I shall think myself obliged to interfere *in another manner*, if you neglect it."

XXX.—That he, the said Warren Hastings did insult the captive condition of the said nabob, by informing him, in his imperious instructions aforesaid, that this total, blind, and implicit obedience, in every respect whatsoever, to Sir John Doyley and himself personally, and without any reference to the board, "was the very *conditions* of the compliance of the governour-general and council with his late requisition;" which requisition was, that he should enjoy *the free and uncontrolled* management of his own affairs. And though the said captive did offer, as he, the said Hastings, himself admits, *four lacks* of his stipend, at that time reduced to sixteen lacks, for *the free use of the remainder*, yet he did place him, the said nabob, in the state of servitude in the said instructions laid down but a very short time after he had assumed and used the said nabob's independent rights as a ground for refusing to obey the company's orders; and although he has declared, or pretended, on another occasion, which he would have thought similar, that any attempt to limit the household expenses of the nabob of Oude was an indignity, "which no man living, however mean his rank in life, or dependent his condition in it, would permit to be exercised by any other, without the want or forfeiture of every manly principle."

XXXI.—That the said Warren Hastings did order the said stipend (which was to be distributed, in the minutest particular, according to the said Hastings's personal directions) to be paid monthly, not to any officer of the nabob, but to the said resident Sir John Doyley. And whereas the governour-general and council did, on the appointment of Mahomed Reza Khân, according to their duty, instruct him that "he do conform to the *orders* of the company, which direct that an annual account of the nabob's expenses be transmitted, through the resident at the durbar, for the inspection of this *board*," the said Hastings, in making his new establishment in favour of his resident, did wholly omit the said instruction, and did confine the said communication to *himself* privately. And in fact it does not appear, that any account whatsoever of the disposition of the said large sum, exceeding £ 160,000 sterling a year, has been laid before the board, or at least that any such account has been transmitted to the court of directors; and it is not fitting, that any British servant of the company should have the management of any public money, much less of so great a sum, without a public well-vouched account of the specific expenditure thereof.

XXXII.—That the court of directors did, on the 17th of May, 1766, propose certain rules for regulating the correspondence of the resident with the nabob of Bengal, in which they did direct, as a principle for the said regulations, as follows, (paragraph 16:) "We would have his correspondence to be carried on with the *select committee* through the channel of the president; he should keep a diary of all his transactions. His correspondence with the natives *must be publicly conducted*; copies of all his letters, sent and received, be transmitted monthly to the presidency, with duplicates and triplicates to be transmitted home in our general packet by every ship."

XXXIII.—That the president and select committee (Lord Clive being then president) did approve of the whole substantial part of the said regulation, (the diary excepted;) and the principle, in all matters of account, ought to have been strictly adhered to, whatever limitations may have been given to the office of resident. Yet he, the said Warren Hastings, in defiance of the aforesaid good rules, orders, and late precedent in conformity to the same, did not only withhold any order

for the purpose, but, in order to carry on the business of the said durbar in a clandestine manner for his own purposes, did, as aforesaid, exclude all English from an intercourse with the nabob, who might carry complaints or representations to the board, or the court of directors, of his condition, or the conduct of the resident; and did further, to defeat all possible publicity, insinuate to him to give the preference to verbal communication above letters, in the words following, of the 9th article of his instructions to the nabob: "Although I desire to receive your letters frequently, yet, as many matters will occur, which cannot be so *easily explained by letters as by conversation*, I desire, that you will on such occasions give your orders to him respecting such points as you may desire to have imparted to me; and I, postponing every other concern, will give an immediate, and the most satisfactory reply concerning them." Accordingly, no relation whatsoever has been received by the court of directors of the said nabob's affairs; nor any account of the money monthly paid, except from public fame, which reports that his affairs are in great disorder, his servants unpaid, and many of them dismissed, and all the Mussulmen dependent on his family in a state of indigence.

XVIII. THE MOGUL DELIVERED UP TO THE MAHRATTAS.

I.—THAT Shâh Allum, the prince commonly called the Great Mogul, or, by eminence, *The King*, is, or lately was in the possession of the antient capital of Hindostan; and though without any considerable territory, and without a revenue sufficient to maintain a moderate state, he is still much respected and considered; and the custody of his person is eagerly sought by many of the princes in India, on account of the use to be made of his title and authority; and it was for the interest of the East-India company, that, while on one hand no wars shall be entered into in support of his pretensions, on the other no steps should be taken, which may tend to deliver him into the hands of any of the powerful states of that country; but that he should be treated with friendship, good faith, and respectful attention.

II.—That Warren Hastings, in contradiction to this safe, just, and honourable policy, strongly prescribed and enforced by the orders of the court of directors, did (at a time when he was engaged in a negotiation, the declared purpose of which was to give peace to India) concur with the captain-general of the Mahratta state, called Madajee Scindia, in hostile designs against the few remaining territories of that same Mogul emperour, by virtue of whose grant the company actually possess the government, and enjoy the revenues, of great provinces, and also against the possessions of a Mahomedan chief called Nudjif Cawn, a person of much merit with the East-India company; in acknowledgment of which they had granted him a pension, included in the tribute due to the king, and, together with that tribute, taken from him by the said Warren Hastings, though expressly *guarantied* to him by the company. With both these powers the company had been in friendship, and were actually at peace at the time of the said clandestine concurrence in a design against them; and the said Hastings hath since declared, that the right of one of them, namely, "the right of the Mogul emperour to our assistance has been constantly acknowledged."

III.—That the said Warren Hastings, at the time of his treacherous concurrence in a design against a power, which he was himself of opinion we were bound to assist, and against whom there was no doubt he was bound neither to form nor to concur in any hostile attempt, did give a caution to Colonel Muir, to whom the negotiation aforesaid was intrusted on the part of the company, against "inserting any thing in the treaty which might *expressly* mark our *knowledge* of his [the Mahratta general's] views *or concurrence in them*." Which said transaction was full of duplicity and fraud; and the crime of the said Hastings therein is aggravated by his having some years before withheld the tribute; which by treaty was solemnly agreed to be paid to the said king, on pretence that he had thrown himself, for the recovery of his city of Delhi, on the protection of the Mahrattas, whom the said Warren Hastings then called *the natural enemies* of the company, and the growth of whose power he then alleged to be highly dangerous to the interest of this kingdom in India.

IV.—That after having concurred, in the manner before mentioned, in a design of the Mahrattas against the Mogul; and notwithstanding he, the said Warren Hastings, had

formerly declared, "that with him [the Mogul] our connexion had been a long time suspended, and *he wished never to see it renewed*, as it had proved a fatal drain to the wealth of Bengal, and the treasury of the company, without yielding one advantage or possible resource, even of remote benefits, in return," the said Warren Hastings did nevertheless, on or about the month of March, 1783, with the privity and consent of the members of the board, but by no authoritative act, despatch, as agents of him the governour-general only, and not as agents of the governour-general and council, as they ought to have been, certain persons, among whom were Major Browne and Major Davy, to the court of the king at Delhi, and did there enter into certain engagements with the said king by the means of those agents, and did carry on certain private and dangerous intrigues for various purposes, particularly for making war in favour of the said king, against some powers or princes not precisely described, but which, as may be inferred from a subsequent correspondence, were certain Mahomedan princes in the neighbourhood of Delhi in amity with the company, and some of them at that time in the actual service, and in the apparent confidence and favour of the said Mogul; and he did order Major Browne to offer to the Mogul king to provide for the *entire* expense of *any* troops the Shâh [the said king] might require; and the proposal was accordingly accepted with the conditions annexed; by which proposal, and acceptance thereof, the East-India company was placed in a situation of great and perplexing difficulty, since either they were to engage, at an unlimited *expense*, in new wars, contrary to their orders, contrary to their general declared policy, and contrary to the published resolutions of the house of commons, and wholly incompatible with the state of their finances; or, to preserve peace, they must risk the imputation of a new violation of faith, by departing from an agreement made on the voluntary proposal of their own government; the agent of the said Hastings having declared, in his letter to the said Hastings, by him communicated to the board, "that the business of assisting the Shâh [the Mogul emperour] can and *must* go on, if we wish to be secure in India, or regarded as a nation of faith and honour."

V.—That the said Warren Hastings did, on the 20th day of January, 1784, send in circulation to the other members of the council a letter to him from his agent Major Browne, dated at Delhi, on the 30th of December, 1783, viz. that letter, to which the foregoing references are made, in which the said Browne did directly press, and indirectly (though sufficiently and strongly) suggest several highly dangerous measures for realizing the general offers and engagements of the said Warren Hastings;—proposing, that besides a proportion of field-artillery, and a train of battering cannon for the purpose of sieges, six regiments of sepoys in the company's service should be transferred to that of the said king, and that certain other corps should also be raised for the said service in the English provinces and dependencies, to be immediately under the king's [the Mogul's] orders, and to be maintained by assignments of territorial revenue within the province of Oude, a dependent member of the British government, but with a caution against having any British officer with the same; the said Major Browne expressing his caution as followeth;—"If any European officer be with this corps, a very nice judgment indeed must direct the choice; for scarce any are in the smallest degree *fit* for *such* employ, but much more likely to do harm than good." And the letter aforesaid being without any observation thereon, or any disavowal of the matters of fact, or of the counsels so strongly and authoritatively delivered therein by the said Warren Hastings's agent, and without any mark of disapprobation of any part of his plan, whether that of the assignment of terrritory belonging to the company's allies for the maintenance of troops, which were to be by that plan put under the orders of a foreign independent power, or that of employing the said troops without any British officer with them; or for his alarming observation by him entering on the company's records, which, if not an implied censure on the nature of the service, in which British officers are supposed improper to be trusted, is a strong reflection on the character of the British officers, which was to render them unfit to be employed in an honourable service—the said Warren Hastings did thereby give a countenance to the said unwarrantable and dangerous proposals and reflections.

VI.—That, a considerable time before the production and circulation of Major Browne's letter, the said Hastings did enter a minute of consultation, containing a proposition similar in the general intent to that in the said letter contained for assisting the Mogul

with a military force; but the other members of the board did disagree thereto, and being alarmed at the disposition so strongly shown by the said Hastings to engage in new wars, and dangerous foreign connexions, and possibly having intelligence of the proceedings of his agent, did call upon him to produce his instructions to Major Browne; and he did, on the 5th of October, 1783, and not before, enter on the consultations a certain paper, purporting to be the instructions which he had given to Major Browne the proceeding March, the time of his, the said Browne's appointment; in which pretended instructions no direction whatsoever was given to the effect of his, the said Hastings's minute of consultation, or propounded: that is to say, no power was given in the said instructions to make a direct offer of military aid to the Mogul, or to form the arrangements stated by the said Browne, in his letter to the said Hastings, as having been made by the express authority of the said Hastings himself. But the said instructions contained nothing further on that subject but a conditional direction, that in case a military force should be required for the Mogul's aid or protection, the Major is to know the service on which it is to be employed, and the resources from whence it is to be paid; and the instructions produced as his real instructions by the said Hastings are so guarded as to caution the said Browne against *taking any part in the intrigues of those who are about the king's person.* By which letters, instructions, and transactions, compared with each other, it appears that the said Warren Hastings, after six months' delay in entering of (contrary to the Company's order) any instructions to the said Browne, did at last enter a false paper as the true, or that he did give other secret instructions totally different from, and even opposite to, his public ostensible instructions, thereby to deceive the council, and to carry on, with less obstructions, dark and dangerous intrigues, contrary to the orders of the court of directors, to the true policy of this kingdom, and to the safety of the British possessions in the east.

VII.—That the said letter from Major Browne was by the said Warren Hastings transmitted to the court of directors, without being accompanied by any part of the previous correspondence; by which wilful concealment the said Warren Hastings is guilty of an high and criminal disrespect to the court of directors, and of a most flagrant breach and violation of their orders, which he was bound by an act of parliament to obey.

VIII.—That the said Hastings having early in the year 1784 procured to himself a deputation to act in the upper provinces, the council, being well aware of his disposition to engage in unwarrantable designs against the neighbouring states, did expressly confine his powers to the circumstance of his actual residence within the company's provinces; but it appears that ways were found out, by which he hoped to defeat the precautions of the board: for the said Warren Hastings did write from Lucknow, the capital of the country of Oude, to the court of directors a certain postscript of a letter dated 4th of May, 1784, in which he informs the court, that the son and heir-apparent of the great Mogul had taken refuge with him, and the nabob of Oude; that he had a conference with that prince on the 10th of the same month of May, "no person being either present or within hearing" during the same, and that in the said conference the prince had informed him of the distresses of his father, and his wish for the relief of the king, and the restoration of the dominions of his house, as well as to rescue him from the power of certain persons not named, who degraded him into a mere instrument of their interested and sordid designs; and that on a failure of his application to him, he would either return to his father, or proceed to Calcutta, and thence to England; and that the said Warren Hastings did give him an answer to the following effect: "That our [the British] government had just obtained relief from a state of universal warfare, and required a term of repose; that our whole nation was weary of war, and dreaded the renewal of it, *and would be equally alarmed at any movement, of which it could not see the issue or progress, but which might eventually tend to create new hostilities*, that he came hither [to Lucknow] with a limited authority, and could not, if he chose it, engage in any business of that nature *without the concurrence of his colleagues in office, who he believed would be averse to it*, that he would represent the same to the joint members of his own government, and wait their determination. In the mean time he advised the prince to make advances to Madajee Scindia, both because our government *was in intimate and sworn connexion* with him, and because he was the effectual head of the Mahratta state; besides, that he, the said

Warren Hastings, feared his [Scindia's] taking the other side of the question, unless he was early prevented."

IX.—That, in the statement of this discourse, there is much criminal reserve towards the court of directors, it not appearing distinctly what the objects were, nor who the persons concerned, nor what the side was, which he apprehended the Mahrattas might take, if not prevented by his advances; and in the discourse itself there were many particulars highly criminal; namely, for that in the said conversation, in which he describes himself as declining a compliance with the request of the prince on account of the aversion (therein strongly expressed) of his colleagues, of the company, and of the whole British nation, to engage in any measures, which might even "*eventually lead to hostilities*"—he spoke to the prince as if he had been entirely ignorant of the offers, which but five months before had been made to the king his father on the part of that very government (whose repugnance to such measures he then for the first time chose to profess, but which he always had known) through Major Browne the company's representative at the court of Delhi, "to provide for the *entire* expense of *any* troops, which the shâh [the king] might require;" and that this was "what the resident had *always* proposed to the king, and his confidential ministers;" the said Browne further declaring, "that if, in consequence of the said proposals, certain arrangements for the shâh's service, by *troops*, were not immediately ordered, in his opinion all our [English government's] *offers and promises* will be considered as false and insidious." This being the known state of the business, as represented by the said Hastings's own agent, and this the public opinion of it, although to impose on the ignorance of the prince with regard to the proceedings at his father's court would have been unworthy in itself, yet he, the said Warren Hastings, could not hope to succeed in such imposition, as in the postscript aforesaid he represents the said prince [who was the king's eldest son, and thirty-six years of age] as a person of considerable qualifications, and perfectly acquainted with the transactions at his father's court, and as one, who had long held the *principal* and most active part in the little that remained of the *administration of Shâh Allum*. And the said Hastings conferring with a prince so well instructed, without making the slightest allusions to his said positive and recent engagements, or without giving any explanation with regard to them, the said Warren Hastings must appear to the said prince, either as the person not only contracting engagements, but actually being the first mover and proposer of them, without any authority from *his colleagues*, and against theirs and the general inclination of the British nation, and on that ground not to be trusted; or that he had used this plea of disagreement between him and his council as a pretence, set up without colour or decency, for a gross violation of his own engagements; leaving the princes and states of the country no solid ground, on which they can or ought to contract with the company, to the utter destruction of all public confidence, and to the equal disgrace of the national candour, integrity, and wisdom.

X.—That, in a letter dated from the same place, Lucknow, the 16th of the following June, 1784, the said Warren Hastings informs the court of directors, that Major Browne, their agent to the Mogul, had arrived there in the character also of agent from the Mogul with two sets of instructions from two opposite parties in his ministry, which instructions were directly contrary to each other; the first, which were the ostensible instructions, being to engage the said Hastings, in the Mogul's name, to enter into a treaty of mutual alliance with the chief of the country, then minister to the said Mogul, called Affrasaib Khân; the second were from another principal person, called Mudjed ul Dowla, also a minister of the said Mogul (but styled in the said letter *confidential*, for distinction;) which were directly destructive of the former; and the said latter instructions, to which it seems credence was to be given, were sent "under the most solemn adjurations of secrecy." The purpose of these latter and secret instructions was to require the company's aid in freeing the Mogul from the oppressions of his servants, namely, from the oppressions of the said *Affrasaib*, between whom and the company Major Browne (at once agent to that company, and to two opposite factions in the Mogul's court) accepted a power to make a treaty of mutual alliance under the sanction of his sovereign; and it does not appear, that he, Warren Hastings, did discountenance the double dealing and fraudulent agencies of his and the company's minister at that court; or did disavow any particular in the letter from him the said Browne, of the 30th of December, 1783,

stating the offers made on his part to the Mogul, so contradictory to his late declarations to the heir apparent of that monarch, or did give any reprimand to the said Browne, or did show any mark of displeasure against him, as having acted without orders, but did again send him with renewed consequence, to the court aforesaid.

XI.—That the said Warren Hastings, still pursuing his said evil designs, did apply to the council for discretionary powers relative to the intrigues and factions in the Mogul's court, giving assurances of his resolution not to proceed against their sense; but the said council, being fully aware of his disposition, and having Major Browne's letter, recorded by himself, the said Warren Hastings, before them, did refuse to grant the said discretionary powers; but, on the contrary, did exhort him "most sedulously and cautiously to avoid, in his correspondence with the different princes in India, whatever may commit, or be strained into an interpretation of committing, the company, either as to their army or treasure;" observing, "that the company's orders are positive against their interference in the objects of dispute between the country powers."

XII.—That in order to subvert the plain and natural interpretation given by the council to the orders of the court of directors, and to justify his dangerous intrigues, the said Warren Hastings, in his letter of the 16th June, 1784, to the said court, did, in a most insolent and contemptuous manner, endeavour to persuade them of their ignorance of the true sense of their own orders, and to limit their prohibition of interference with the disputes of the country powers to such country powers as are *permanent;* expressing himself as follows: "The faction, which now surrounds the throne [the Mogul's throne] is widely different from the idea which your commands are intended to convey by the expressions, to which you have generally applied them, of *country powers*, to which that of *permanency is a necessary adjunct;* and which may be more properly compared to a splendid bubble, which the slightest breath of opposition may dissipate with every trace of its existence." By which construction the said Hastings did endeavour to persuade the court of directors, that they meant to confine their prohibition of sinister intrigues to those powers only, who could not be easily hurt by them, and whose strength was such, that their resentment of such clandestine interference was to be dreaded; but that, where the powers were weak and fragile, such intrigues might be allowed.

XIII.—That the said Hastings, further to persuade the court of directors to involve themselves in the affairs of the Mogul, and to reconcile this measure with his former conduct and declared opinions, did write to them to the following effect; that "at that former period, to which the ancient policy with regard to the Mogul applied, the king's authority was sufficiently respected [which he knew not to be true, having himself declared, in his minute of the 25th of October, 1774, 'that he remained at Delhi, the ancient capital of the empire, a *mere cypher* in the administration of it'] to maintain itself against common vicissitudes. That he would not have advised interference if the king himself retained the exercise of it, *however feeble*, in his own hands. That if it [the Mogul's authority] is suffered to receive its final extinction, it is impossible to foresee *what power may arise out of its ruins*, or what events may be linked in the same chain of revolution with it: but your interests *may* suffer by it—your reputation *certainly will*, as his right to our assistance has *been constantly acknowledged*, and by a train of consequences, to which our government has, not intentionally, given birth; but most especially by the movements, which *its influence, by too near an approach* has excited, it has unfortunately become the efficient instrument of a great portion of the king's present distresses and dangers:" intimating (as well as the studied obscurity of his expressions will permit any thing to be discerned) that his own late intrigues had been among the causes of the distresses and dangers, which, by new intrigues, he did pretend to remove: and he did conclude this part of his letter with some loose general expressions of his caution not to affect the company's interests or revenues by any measures he might at that time take.

XIV.—That the principle, so far as the same hath been directly avowed, of the said proceedings at the Mogul's court, was as altogether irrational, and the pretended object as impracticable, as the means taken in pursuit of it were fraudulent and dishonourable, namely, the restoration of the Mogul in some degree to the dignity of his situation, and to his free-agency in the conduct of his affairs. For the said Hastings, at the very time, in

which he did with the greatest apparent earnestness urge the purpose, which he pretended to have in view, with regard to the dignity and liberty of the Mogul emperour, did represent him as a person wholly disqualified, and even indisposed, to take any active part whatsoever in the conduct of his own affairs; and that any attempt for that purpose would be utterly impracticable: and this he hath stated to the court of directors as a matter of public notoriety, in his said letter of the 16th of June, 1784, in the following emphatical and decisive terms:

"*You need not be told* the character of the king, whose inertness, and the habit of long suffering, has debased his dignity and the fortunes of his house *beyond the power of retrieving either the one or the other.* Whilst his personal repose is undisturbed, he will *prefer* to live in the *meanest state of indigence*, under the rule of men whose views are bounded by avarice, and the power, which they derive from his authority, rather than commit any share of it to his own sons, though his affection for them is boundless in every other respect; from a natural jealousy, founded on the experience of a very different combination of those circumstances, which once served as a temptation and example of unlawful ambition in the princes of the royal line. His ministers, from a policy more reasonable, have constantly employed every means of influence to confirm this disposition, and to prevent his sons from having any share in the distribution of affairs, so as to have established a complete usurpation of the royal prerogative under its own sanction and patronage."

XV.—That the said Warren Hastings, having given this opinion of the sovereign, for whose freedom he pretended so anxious a concern, did describe the minister, with whom he had long acted in concurrence, and from whom he had just received the extraordinary secret embassy aforesaid for the purpose of effecting the deliverance of his master, the Mogul, from the usurpations of *his ministers*, as follows: "The first minister, Mudjud ul Dowla, is *totally* deficient in every military quality; conceited of his own superiour talents; and formed to the practice of *that crooked policy which generally defeats its own purpose*, but sincerely attached to his master." The reality of the said attachment was not improbable, but altogether useless, as the said minister was the only one among the principal persons about the king, who (besides the total want of all military and civil ability) possessed no territories, troops, or other means of serving and supporting him; but was himself solely upheld by his influence over his master; neither doth the said Hastings free him any more than the persons more efficient, who were to be destroyed, from a disposition to alienate the king from an atention to his affairs, and from all confidence in his own family; but, on the contrary, he brings him forward as the very first among the instance he adduces to exemplify the practices of the ministers against their sovereign and his children.

XVI.—That the said Warren Hastings, recommending in general terms, and yet condemning in detail, every part of his own pretended plan, as impracticable in itself, and as undertaken in favour of persons, all of whom he describes as incapable, and the principal as indisposed to avail himself thereof, must have had some other motives for this long, intricate, dark, and laborious proceeding with the Mogul, which must be sought in his actions, and the evident drift and tendency thereof, and in declarations, which were brought out by him to serve other purposes, but which serve fully to explain his real intentions in this intrigue.

XVII.—That the other members of the council-general having abundantly certified their averseness to his intrigues, and even having shown apprehensions of his going personally to the Mogul and the Mahrattas for the purpose of carrying on the same, the said Hastings was driven headlong to acts, which did much more openly indicate the true nature and purpose of his machinations; for he at length recurred directly, and with little disguise, to the Mahrattas, and did open an intrigue with them, although he was obliged to confess, in his letter aforesaid of the 16th June, 1784, that the exception, which he contended to be implied in the orders of the court of directors, forbidding the intermeddling in the disputes of "the country powers," namely, "powers not permanent," did by no means apply to the Mahrattas; and he informs the court of directors, that he did, on the very first advice he received of the flight of the Mogul's son, write to Mr. James Anderson, to apprize the Mahratta chief, Scindia, of that event; "for which, as he was unprepared, he desired his [the said Scindia's] advice for his conduct on the occasion of it." Which method of calling for the advice of a foreign

power to regulate his political conduct, instead of being regulated therein by the advice of the British council and the standing orders of the court of directors, was a procedure highly criminal; and the crime is aggravated by his not communicating the said correspondence to the council-general, as by his duty he was bound to do; but it does abundantly prove his concert with the Mahrattas in all that related to his negotiations in the Mogul court, which were carried on agreeably to their advice, and in subserviency to their views and purposes.

XVIII.—That, in consequence of the cabal begun with the Mahrattas, the said chief Scindia did send his "familiar and confidential ministers" to him, the said Hastings, being at Lucknow, with whom the said Hastings did hold several secret conferences, without any secretary, or other assistant; and the said Hastings hath not conveyed to the court of directors any minutes thereof, but hath purposely involved even the general effect and tendency of these conferences in such obscurity, that it is no otherwise possible to perceive the drift and tendency of the same, but by the general scope of counsels and acts relative to the politics of the Mogul, and of the Mahrattas together, and by the final event of the whole, which is sufficiently visible. For,

XIX.—That the said Hastings had declared, in his said letter of the 16th June, 1784, that the Mogul's right to our assistance had been constantly acknowledged; that the Mogul had been oppressed by the lesser Mahomedan princes in the character of his officers of state, and military commanders; and he did plainly intimate, that the said Mogul ought to be relieved from that servitude. And he did, in giving an account to the court of directors of the conferences aforesaid, assure them, that "his inclinations [the inclinations of the Mahratta chief aforesaid] were not very dissimilar from his own;" and that "neither in this, nor in any other instance, would he suffer himself to be drawn into measures, which shall tend to weaken their connexion, nor *in this even to oppose his* [the said chief's] *inclinations*;" the said Hastings well knowing, as in his letter to Colonel Muir he has confessed, that the inclinations of the said Scindia were to seize on the Mogul's territories, and that he himself did secretly concur therein, though he did not formally insert his concurrence in the treaty with the said Mahratta chief. It is plain, therefore, that he did all along concur with the Mahrattas in their designs against the said king and his ministers, under the treacherous pretence of supporting the authority of the former against the latter, and did contrive and effect the ruin of them all. For, first, he did give evil and fraudulent counsel to the heir apparent of the Mogul "to make advances to the Mahrattas," when he well knew, and had expressly concurred in, the designs of that state against his father's [the Mogul's dominions; and further to engage and entrap the said prince, did assert, that "our government" [meaning the British government] was in intimate and sworn connexion with Mahadajee Scindia," when no alliance, offensive or defensive, appears to exist between the said Scindia and the East-India company, nor can exist, otherwise than in virtue of some secret agreement between him the said Scindia and Warren Hastings, entered into by the latter without the knowledge of his colleagues, and the government, and never communicated to the court of directors. And secondly, he did, in order to further the designs of the Mahrattas, contrive and effect the ruin of the said Mogul and his authority by setting on foot, through the aforesaid Major Browne, sundry perplexed and intricate negotiatoins, contrary to public faith, and to the honour of the British nation; by which he did exceedingly increase the confusion and disorders of the Mogul's court, exposing the said Mogul to new indignities, insults, and distresses, and almost all of the northren parts of India to great and ruinous convulsions, until three out of four of the principal chieftains, some of them possessing the territories lately belonging to Nudjiff Cawn, and maintaining among them eighty thousand troops of horse and foot, and some of which chiefs were the ministers aforesaid, being cut off by their mutual dissentions, and the fort of Delhi being at length delivered to the Mahrattas, the said Scindia became uncontrolled ruler of the royal army; and the person of the Mogul, with the use of all his pretensions and claims, fell into the hands of a nation already too powerful, together with an extensive territory, which entirely covers the company's possessions and dependencies on one side, and particularly those of the nabob of Oude.

XX.—That the circumstances of these countries did, in the opinion of the said Warren Hastings himself, sufficiently indicate to him the necessity of not aggrandizing any

power whatsoever on their borders, he having in the aforesaid letter of the 16th of June, given a deliberate opinion of the situation of Oude, in the words following: "that, whilst we are at peace with the powers of Europe, it is only in this quarter that your possessions under the government of Bengal are vulnerable." And he did further in the said letter state, that, "if things had continued as they had been to that time with a divided government," [viz. the company's and the vizier's, which government he had himself established, and under which it ever must in a great degree remain, whilst the said country continues in a state of dependence] "the *slightest* shock from a foreign hand, or even an *accidental internal commotion*, might have thrown the whole into confusion, and produced the most fatal consequences." In this perilous situation he made the above-recited sacrifices to the ambition of the Mahrattas, and did all along so actively countenance and forward their proceedings, and with so full a sense of their effect, that in his minute of the 24th December, 1784, he has declared, that in the countries, which border on the dominions of the nabob vizier, or on that quarter of our own, in effect *there is no other power*." And he did further admit, that the presence of the Mahratta chief aforesaid, so near the borders of the nabob's dominions, was no cause of suspicion; for, "that it is the effect *of his own solicitation*, and is *so far* the effect of an act of that government.

XXI.—That, in further pursuit of the same pernicious design, he, the said Warren Hastings did enter into an agreement to withdraw a very great body of the British troops out of the nabob's dominions; asserting, however truly, yet in direct contradiction to his own declarations, that "this government [meaning the British government] has not any right to force defence with its maintenance upon him" [the nabob;] and he did thus not only avowedly aggrandize the Mahratta state, and weaken the defence upon the frontier, but did as avowedly detain their captain-general in force on that very frontier, notwithstanding he was well apprized that they had designs against those dependent territories of Oude, which they had with difficulty been persuaded, even in appearance, to include in the treaty of peace; and that they have never renounced their claims upon certain large and valuable portions of them, and have shown evident signs of their intentions, on the first opportunity, of asserting and enforcing them.

And finally, the said Warren Hastings, in contradiction to sundry declarations of his own concerning the necessity of curbing the power of the Mahrattas, and to the principle of sundry measures undertaken by himself professedly for that purpose, and to the sense of the house of commons, expressed in their resolution of 28th May, 1782, against any measures, that tended to unite the dangerous powers of the Mahratta empire under one active command, has endeavoured to persuade the company, that, "while Scindia lives, every accession of territory obtained by him will be an advantage to this [the British] government;" which, if it was true as respecting the personal dispositions of Scindia, which there is no reason to believe, yet it was highly criminal to establish a power in the Mahrattas, which must survive the man, in confidence of whose personal dispositions a power more than personal was given, and which may hereafter fall into hands disposed to make a more hostile use of it.

XXII.—That in consequence of all the before-recited intrigues, the Mogul emperour being in the hands of the Mahrattas, he, the said Mogul, has been obliged to declare the head of the Mahratta state to be vicegerent of the Mogul empire, an authority which supersedes that of vizier, and has thereby consolidated in the Mahratta state all the powers acknowledged to be of legal authority in India; in consequence of which they have acquired, and have actually already attempted to use, the said claims of general superiority against the company itself; the Mahrattas claiming a right in themselves, to a fourth part of the revenues of all the provinces in the company's possession, and claiming, in right of the Mogul, the tribute due to him; by which actings and doings the said Hastings has to the best of his power brought the British provinces in India into a dependence on the Mahratta state; and in order to add to the aforesaid enormous claims a proportioned force, he did never cease, during his stay in India, to contrive the means for its increase: for it is of public notoriety, that one great object of the Mahratta policy is to unite under their dominion the nation or religious sect of the seiks, who being a people abounding with soldiers, and possessing large territories, would extend the Mahratta power over the whole of the vast countries to the north-west of India.

XXIII.—That the said Warren Hastings,

further to augment the power of the said Mahrattas, and to endanger the safety of the British possessions, having established in force the said Mahrattas on the frontier, as afore recited, and finding the council-general averse in that situation to the withdrawing the British forces therefrom, and for disbanding them to the extent required by the said Hastings, did in a minute of the 4th December, 1784, after stating a supposition, that, contrary to his opinion, the said troops should not be reduced, propose to employ them under the command of the Mogul's son, then under the influence of the Mahrattas, in a war against the aforesaid people or religious sect called seiks, defending the same on the following principles: "I feel the sense of an obligation imposed on me, by the supposition I have made, to state the mode of rendering the detachment of use in its prescribed station, and of affording the *appearance* of a cause for its retention."

XXIV.—That the said Hastings did admit, that there was no present danger to the company's possessions from that nation, which could justify him in such a war, as he had declared, that the Mahrattas were the only power, that bordered on the company's possessions and those of the vizier; but he did assign as a reason for going to war with them, their military and enthusiastic spirit; the hardiness of their natural constitution; the dangers, which might arise from them in some future time, if they should ever happen to be united under one head, they existing at present in a state little different from anarchy; and he did predict great danger from them, and at no very remote period, "if this people be permitted to grow into maturity without interruption." And though he doth pretend, that the solicitations of the heir apparent of the Mogul, who, he says, did repeatedly and earnestly solicit him to obtain the permission to use the company's troops for the purpose aforesaid, had weight with him; yet he doth declare, as he expresses himself in the minute aforesaid, that "a *stronger impulse*, arising from the hope of *blasting the growth* of a generation, whose strength might become fatal to our own, strongly pleaded in my mind for supporting his wishes."

XXV.—That the said Warren Hastings, after forcibly recommending the plan aforesaid, did state strong objections, that did, "in his judgment, outweigh the advantages, which might arise from a compliance with it." Yet the said Hastings, being determined to pursue his scheme for aggrandizing, at any rate, the Mahratta power, in whose adult growth, and the recent effects of it, he could see no danger, did pursue the design of war against a nation or sect of religion in its infancy, from whom he had received no injury, and in whose present state of government he did not apprehend any mischief whatsoever; and finding the council fixed and determined on not disbanding the frontier regiments, and thinking, that therein he had found an advantage, he did ground thereon the following proposition:

"If the expense [of the frontier troops] is to be continued, it may be surely better continued for some useful purpose, than to keep up the parade of a great military corps designed merely to lie inactive in its quarters. On this ground, therefore, and on the supposition premised, I revert to my original sentiments in favour of the prince's plan; but as this will require some qualification in the execution of it, I will state my recommendation of it in the terms of a proposition, viz. That if it shall be the resolution of the board to continue the detachment now under the command of Colonel Sir John Cumming at Furruckabad; and if the prince Mirza Jehander Shâh shall apply, *with the authority of the king, and the concurrence of Madajee Scindia*, for the assistance of an English military force, to act in conjunction with him, to expel the seiks from the territories, of which they have lately possessed themselves the neighbourhood of Delhi, it may be granted, and such a portion of the said detachment allotted to that service as shall be hereafter judged adequate to it."

XXVI.—That the said Warren Hastings did, in the said proposal, endeavour to circumvent and overreach the council-general, by converting an apparent and literal compliance with their resolution into a real and substantial opposition to, and disappointment thereof. For his first proposal was to withdraw the company's troops from the vizier's country, on the pretence of relieving him from the burthen of that establishment, but in reality with a view of facilitating the Mahratta pretensions on that province, which would then be deprived of the means of defence. And when the council rejected the said proposal, on the express ground of danger to the province, by withdrawing from the Mahrattas the restraint of our troops, the said Hastings, finding his first scheme in favour of the Mah-

rattas against the provinces dependent on the company defeated by the refusal of the council to concur in the said measure of withdrawing the troops, did then endeavour to obtain the same purpose in a different way; and instead of leaving the troops, according to the intention and policy of the council, as a check to the ambition and progress of the Mahrattas, he proposed to employ them in the actual furtherance of those schemes of aggrandizement, of which his colleagues were jealous, and which it was the object of their resolution to counteract.

XXVII.—That in the whole of the letters, negotiations, proposals, and projects of the said Warren Hastings, relative to the Mogul, he did appear to pursue but one object, namely, the aggrandizement of the lately hostile and always dangerous power of the Mahrattas; and did pursue the same by means highly dishonourable to the British character for honour, justice, candour, plain-dealing, moderation, and humanity.

XIX. LIBEL ON THE COURT OF DIRECTORS.

I.—That Warren Hastings, Esquire, was, during the whole of the year 1783, a servant of the East-India company, and was bound by the duties of that relation not only to yield obedience to the orders of the court of directors, but to give to the whole of their service an example of submission, reverence, and respect to their authority: and that if they should in the course of their duty call in question any part of his conduct, he was bound to conduct his defence with temper and decency; and while his conduct was under their consideration, it was not allowed ble to print and publish any of his letters to them, without their consent first had and obtained; and he was bound by the same principles of duty, enforced by still more cogent reasons, to observe, in a paper intended for publication, great modesty and moderation, and to treat the said court of directors, his lawful masters, with respect.

II.—That the said Warren Hastings did print and publish, or cause to be printed and published, at Calcutta in Bengal, the narrative of his transactions at Benares, in a letter written at that place, without leave had of the court of directors, in order to pre-occupy the judgment of the servants in that settlement, and to gain from them a factious countenance and support, previous to the judgment and opinion of the court of directors, his lawful superiours.

III.—That the court of directors having come to certain resolutions of fact relative to the engagements subsisting between them and the rajah of Benares, and the manner in which the same had been fulfilled on the part of the rajah, did, in the fifth resolution, which was partly a resolution of opinion, declare as follows:—"That it appears to this court that the conduct of the governour-general towards the rajah whilst he was at Benares, was improper; and that the imprisonment of his person, thereby disgracing him in the eyes of his subjects, and others, was unwarrantable and highly impolitic, and may tend to weaken the confidence, which the native princes of India ought to have in the justice and moderation of the company's government."

IV.—That the said resolutions being transmitted to the said Warren Hastings, he, the said Warren Hastings, did write, and cause to be printed and published, a certain false, insolent, malicious, and seditious libel, purporting to be a letter from him, the said Warren Hastings, to the court of directors, dated Fort William, 20th March, 1783, "calculated [as the directors truly affirm] to bring contempt, as well as an odium, on the court of directors for their conduct on that occasion;" and the said libel had a direct tendency to excite a spirit of disobedience to the lawful government of this nation in India through all ranks of their service.

V.—That he, the said Warren Hastings, among other insolent and contumacious charges and aspersions on the court of directors, did address them in the printed letter aforesaid, as follows:—"I deny, that Rajah Cheit Sing was a native prince of India. Cheit Sing is the son of a collector of the revenue of that province, which his arts, and the misfortunes of his master, enabled him to convert to a permanent and hereditary possession. This man, whom *you have thus ranked among the princes of India*, will be astonished, when he hears it, at an elevation so unlooked for; nor less at the independent rights which *your* commands have assigned him; rights, which are so *foreign to his conceptions, that I doubt whether he will know in what language to as-*

sert them; unless the example, *which you have thought it consistent with justice, however opposite to policy, to show, of becoming his advocates against your own interests, should inspire any of your own servants to be his advisers and instructers.*" And he did further, to bring into contempt the authority of the company, and to excite a resistance to their lawful orders, frame a supposition, that the court of directors had intended the restoration of the rajah of Benares; on that ground did presume in the said libel to calumniate, in disrespectful and contumelious terms, the policy of the court of directors, as well as the person whom he did conceive to be the object of their protection, as followeth:—" Of the consequences of such a policy, I forbear to speak. *Most happily the wretch, whose hopes may be excited by the appearances in his favour, is ill qualified to avail himself of them, and the force, which is stationed in the province of Benares, is sufficient to suppress any symptoms of internal sedition;* but it cannot fail to create distrust and suspense in the minds both of the rulers and of the people, and such a state is always productive of disorder. But it is not in this partial consideration that I dread the effects of your commands; it is in your proclaimed indisposition against the first executive member of your first government in India. I almost shudder at the reflection of what might have happened, had these denunciations against your own minister, in favour of a man universally considered in this part of the world as justly attainted for his crimes, the murderer of your servants and soldiers, and the rebel to your authority, arrived two months earlier."

VI.—That the said Warren Hastings did also presume to censure and asperse the court of directors for the moderate terms in which they had expressed their displeasure against him, as putting him under the necessity of stating in his defence a strong accusation against himself; and as implying in the said court a consciousness, that he was not guilty of the offences charged upon him, being, as he asserts, in the resolutions of the court of directors, "arraigned and prejudged of a *violation of national faith in acts of such complicated aggravation, that, if they were true, no punishment* ***SHORT OF DEATH*** could atone for the injury which the interest and credit of the public had sustained in them:" and he did therefore censure the said court for applying no stronger or more criminating epithets than those of "improper, unwarrantable, and highly impolitic," to an offence so by them charged, and by him described. And though it be true, that the expressions aforesaid are much too reserved for the purpose of duly characterizing the offences of the said Hastings, yet was it in *him* most indecent to libel the court of directors for the same; and his implication, from the tenderness of the epithets and descriptions aforesaid used towards him, was not only indecent but ungrounded, malicious, and scandalous; he having himself highly, though truly, aggravated "the charge of the injuries done by him to the rajah of Benares," in order to bring the said directors into contempt and suspicion; the paragraphs in the said libel being as follow: "Here I must crave leave to say, that the terms 'improper, unwarrantable, and highly impolitic,' are much too gentle, as deductions from such premises; and as every reader of the latter will obviously feel, as he reads, the deductions, which inevitably belong to them, I will add, that the strict performance of solemn engagements on one part, followed by acts directly subversive of them, and by total dispossession on the other, stamps on the perpetrators of the latter the guilt of the greatest possible violation of faith and justice."—"There is an appearance of tenderness in this deviation from plain construction, of which, however meant, I have a right to complain; because it imposes on me the necessity of framing the terms of the accusation against myself, which you have only not made, but have stated the leading arguments to it so strongly, that no one, who reads these can avoid making it, *or not know it to have been intended.*"

VII.—That the said Hastings, being well aware that his own declarations did contain the clearest condemnation of his own conduct from his own pen, did, in the said libel, attempt to overturn, frustrate and render of none effect, all the proofs to be given of prevarication, contradiction, and opposition of action to principle, which can be used against men in public trust, and did contend, that the same could not be used against him; and, as if false assertions could be justified by factious motives, he did endeavour to do away the authority of his own deliberate, recorded declarations, entered by him *in writing* on the council-books of the presidency; for after asserting, *but not attempting to prove*, that his declarations were consistent with his conduct, he writes in the said libel as follows: for "were it otherwise, they were not to be made

the rules of my conduct; and God forbid, that every expression dictated by the impulse of present emergency, and unpremeditately uttered in the heat of party contention, should impose upon me the obligation of a fixed principle, and be applied to every variable occasion."

VIII.—That the said Hastings, in order to draw the lawful dependence of the servants of the company from the court of directors to a factious dependence on himself, did, in the libel aforesaid, treat the acts and appointments of their undoubted authority, when exercised in opposition to his arbitrary will, as ruinous to their affairs, in the following terms: "It is as well known to the Indian world, as to the court of English proprietors, that the first declaratory instruments of the dissolution of my influence, in the year 1774, were Mr. John Bristow and Mr. Francis Fowke. By your ancient and known constitution the governour has been ever held forth and understood to possess the ostensible powers of government; all the correspondence with foreign princes is conducted in his name; and every person resident with them for the management of your political concerns is understood to be *more especially his* representative, and of *his* choice—and such ought to be the rule; for how otherwise can they trust an agent nominated against the will of *his* principal? When the state of this administration was such as seemed to *admit of* the appointment of Mr. Bristow to the residency of Lucknow without *much* diminution of *my own* influence, I gladly seized the occasion to show my readiness to submit to your commands; I proposed his nomination; he was nominated and declared to *be the agent of my own choice*. Even this effect of my caution *is defeated by your absolute command for his re-appointment independent of me, and with the supposition, that I should be adverse to it*. I am now wholly deprived of my official powers, both in the province of Oude, and in the zemindary of Benares."

IX.—That further to emancipate others and himself from due obedience to the court of directors, he did, in the libel aforesaid, enhance his services; which, without specification or proof, he did suppose in the said libel to be important and valuable, by representing them as done under their displeasure; and doth attribute his not having done more to their opposition, as followeth:—"It is now a complete period of eleven years since I first received the first nominal charge of your affairs: in the course of it I have *invariably* had to contend, not with ordinary difficulties, but such as most *unnaturally arose from the opposition of those very powers from which I primarily derived my authority, and which were required for the support of it*. My exertions, though applied to an unvaried and consistent line of action, have been occasional and desultory; yet I please myself with the hope, that in the annals of your dominion which shall be written after the extinction of recent prejudices, this term of its administration will appear not the least conducive to the interests of the company, nor the least reflective of the honour of the British name; and allow me to suggest the instructive reflection of *what good might have been done, and what evil prevented, had due support been given to that administration, which has performed such eminent and substantial services without it*."

And the said Hastings, further to render the authority of the said court perfectly contemptible, doth, in a strain of exultation for his having escaped out of a measure in which by his guilt he had involved the company in a ruinous war, and out of which it had escaped by a sacrifice of almost all the territories before acquired (from that enemy which he had made) either by war, or former treaties, and by the abandoning the company's allies to their mercy, attribute the said supposed services to his acting in such a manner as had on former occasions excited their displeasure, in the following words:

"Pardon, honourable sirs, this digressive exultation; I cannot suppress the pride which I feel in this successful achievement of a measure so fortunate for your interests, and the national honour; for that pride is the source of my zeal, so frequently exerted in your support, and never more happily than in those instances *in which I have departed from the prescribed and beaten path of action, and assumed a responsibility which has too frequently drawn on me the most pointed effects of your displeasure*. But however I may yield to my private feelings in thus enlarging on the subject, my motive in introducing it was immediately connected with its context, and was to contrast *the actual state of your political affairs, derived from a happier influence, with that which might have attended an earlier dissolution of it*:" and he did value himself upon "the patience and temper with which he had submitted to all the indignities which have been heaped upon him [meaning

by the said court of directors] in this long service:" and he did insolently attribute to an unusual strain of zeal for their service, that he "persevered in the VIOLENT MAINTENANCE OF HIS OFFICE."

X.—That in order further to excite the spirit of disobedience in the company's servants to the lawful authority set over them, he, the said Warren Hastings did treat contemptuously and ironically the supposed disposition of the company's servants to obey the orders of the court of directors in the words following: "the recal of Mr. Markham, who was known to be the public agent of my own nomination at Benares, and the re-appointment of Mr. Francis Fowke by your order, contained in the same letter, would place it [the restoration of Cheit Sing] beyond a doubt. *This order has been obeyed; and whenever you shall be pleased to order the restoration of Cheit Sing I will venture to promise the same ready and exact submission in the other members of the council:*" and he did, in the postscript of the said letter, and as on recollection, endeavour to make a reparation of honour to his said colleagues, as if his expressions aforesaid had arisen from animosity to them, as follows: "upon a careful revisal of what I have written, I fear that an expression, which I have used respecting the probable conduct of the board, in the event of orders being received for the restoration of Cheit Sing, may be construed as intimating a sense of dissatisfaction, applied to transactions already past. It is not my intention to complain of any one."

XI.—That the said Hastings, in the acts of injury aforesaid to the rajah of Benares, did assume and arrogate to himself an illegal authority therein, and did maintain that the acts done in consequence of that measure were not revocable by any subsequent authority, in the following words: "If you should proceed to order the restoration of Cheit Sing to the zemindary, from which, *by the powers which I legally possessed*, and conceive myself legally *bound to assert* against any *subsequent authority to the contrary*, derived from the same *common source*, he was dispossessed for crimes of the greatest enormity, and your council shall resolve to execute the order, I will instantly give up my station and the service."

XII.—That the said Warren Hastings did attempt to justify his publication of the said libellous letter to and against the court of directors by asserting therein, that these resolutions [meaning the resolutions of the court of directors, relative to the rajah of Benares] "were *either* published, or *intended* for publication;" evidently proving, that he did take this unwarrantable course without any sufficient assurance that the ground and motive by him assigned had any existence.

XX. MAHRATTA WAR, AND PEACE.

I.—THAT by an act passed in 1773, it was expressly ordered and provided, "that it should not be lawful for any president and council at Madras, Bombay, or Bencoolen, for the time being, to make any orders for commencing hostilities, or declaring or making war, against any Indian princes or powers, or for negotiating or concluding any treaty of peace, or other treaty, with any such Indian princes or powers, without the consent and approbation of the governour-general and council first had and obtained, except in such cases of *imminent necessity* as would render it dangerous to postpone such hostilities or treaties until the orders from the governour-general and council might arrive." That nevertheless the president and council of Bombay did, in December, 1774, without the consent and approbation of the governour-general and council of Fort William, and in the midst of profound peace, commence an unjust and unprovoked war against the Mahratta government; did conclude a treaty with a certain person, a fugitive from that government, and proscribed by it, named Ragonaut Row, or Ragoba; and did, under various base and treacherous pretences, invade and conquer the island of Salsette, belonging to the Mahratta government.

II.—That Warren Hastings, on the first advices received in Bengal of the above transactions, did condemn the same in the strongest terms; declaring, that "the measures adopted by the presidency of Bombay had a tendency to a very extensive and indefinite scene of troubles; and that their conduct was unseasonable, impolitic, unjust, and unauthorized." And the governour-general and council, in order to put a stop to the said unjust hostilities, did appoint an ambassadour to the peshwa or chief of the Mahratta state, resident at Poona; and the said ambassadour

did, after a long negotiation, conclude a definitive treaty of peace with the said peshwa on terms highly honourable and beneficial to the East-India company, who by the said treaty obtained from the Mahrattas a cession of considerable tracts of country, the Mahratta share of the city of Broach, twelve lacks of rupees for the expenses of the said unjust war, and particularly the island of Salsette, of which the presidency of Bombay had possessed themselves by surprise and treachery; that in return for these extraordinary concessions, the articles principally insisted on by the Mahrattas, with a view to their own future tranquillity and internal quiet, were, that *no assistance should be given to any subject or servant of the peshwa, that should cause disturbances or rebellion in the Mahratta dominions*, and particularly that the English *should not assist Ragonaut Row*, to whom the Mahrattas agreed to allow five lacks of rupees a year, or a jaghire to that amount, and that he should reside at Benares; that nevertheless, the presidency of Bombay, did receive and keep Ragonaut Row at Bombay, did furnish him with a considerable establishment, and continue to carry on secret intrigues and negotiations with him, thereby giving just ground of jealousy and distrust to the Mahratta state; that the late Colonel John Upton, by whom the treaty of Poorunder was negotiated and concluded, did declare to the governour-general and council, "that while Ragonaut Row resides at Bombay in expectation of being supported, the ministers can place no confidence in the council there; which must now be productive of the greatest inconveniences, and perhaps in the end of fatal consequences." That the said Warren Hastings, concurring with his council, which then consisted of Sir John Clavering, Richard Barwell, and Philip Francis, Esquires, did, on the 18th of August, 1777, declare to the presidency of Bombay, that "he could see no reason to doubt that the presence of Ragoba at Bombay would continue to be an *insuperable bar* to the completion of the treaty concluded with the Mahratta government; nor could any sincere cordiality and good understanding be established with them, as long as he should appear to derive encouragement and support from the English." That Sir John Clavering died soon after, and that the late Edward Wheler, Esquire, succeeded to a seat in the supreme council. That on the 29th of January, 1778, the governour-general and council received a letter from the presidency of Bombay, dated 12th December, 1777, in which they declared, "that they had agreed to give encouragement to a *party* formed in Ragoba's favour, and flattered themselves they should meet with the hearty concurrence of the governour-general and council in the measures they might be obliged to pursue in consequence." That the *party* so described was said to consist of four principal persons in the Mahratta state, on whose part some *overtures* had been made to Mr. William Lewis, the resident of Bombay, at Poona, *for the assistance of the company to bring Ragoba to Poona*. That the said Warren Hastings, immediately on the receipt of the preceding advices, did propose and carry it in council, by means of his casting voice, and against the remonstrances, arguments, and solemn protest of two members of the supreme council, that the sanction of that government should be given to the plan which the president and council of Bombay had agreed to form with the Mahratta government; and also, that a supply of money (to the amount of ten lacks of rupees) should be immediately granted to the president and council of Bombay *for the support of their engagements above mentioned*; and also, that a military force should be sent to the presidency of Bombay. That in defence of these resolutions the said Warren Hastings did falsely pretend and affirm, "that the resolution of the presidency of Bombay was formed on such a case of imminent necessity as would have rendered it dangerous to postpone the execution of it until the orders from the governour-general and council might arrive; and that the said presidency of Bombay *were warranted by the treaty of Poorunder* to join in a plan of conducting Ragonaut Row to Poona on the application of the ruling part of the Mahratta state;" whereas the main object of the said treaty on the part of the Mahrattas, and to obtain which they made many important concessions to the India company, was, that the English should withdraw their forces, and give no assistance to Ragoba, and that he should be excluded for ever from any share in their government, being a person *universally held in abhorrence* in the Mahratta empire; and if it had been true (instead of being, as it was notoriously false) that the ruling part of the administration of the Mahratta state solicited the return of Ragonaut Row to Poona, his return in that case might have been effected by acts of their own, without the interposition of the English power, and without our interference in their affairs. That it was the special duty of the said Warren Hastings, de-

rived from a special trust reposed in him, and power committed to him by parliament, to have restrained, as by law he had authority to do, the subordinate presidency of Bombay, from entering into hostilities with the Mahrattas, or from making engagements, the manifest tendency of which was to enter into those hostilities, and to have put a stop to them, if any such had been begun. That he was bound by the duty of his office to preserve the faith of the British government, pledged in the treaty of Poorunder, inviolate and sacred, as well as by the special orders and instructions of the East-India company to *fix his attention to the preservation of peace throughout India;* all which important duties the said Warren Hastings did wilfully violate, in giving the sanction of the governour-general and council to the dangerous, faithless, and ill-concerted projects of the president and council of Bombay, herein before mentioned, from which the subsequent Mahratta war, with all the expense, distress, and disgraces, which have attended it, took their commencement; and that the said Warren Hastings therefore is specially and principally answerable for the said war, and for all the consequences thereof. That in a letter dated the 20th of January, 1778, the president and council of Bombay informed the governour-general and council, that in consequence of later intelligence received from Poona, they had *immediately resolved that nothing further could be done unless Saccaram Baboo the principal in the late treaty* (of Poorunder) *joined in making a formal application to them.* That no such application was ever made by that person. That the said Warren Hastings, finding that all this pretended ground for engaging in an invasion of the Mahratta government had totally failed, did then pretend to give credit to, and to be greatly alarmed by the suggestions of the president and council of Bombay, that the Mahrattas were negotiating with the French, and had agreed to give them the port of Choul, on the Malabar coast, and did affirm that the French *had obtained possession of that port;* that all these suggestions and assertions were false; and if they had been true, would have furnished no just occasion for attacking either the Mahrattas, or the French, with both of whom the British nation was then at peace: that the said Warren Hastings did then propose and carry the following resolution in council, against the protest of two members thereof, that, "for the purpose of granting you (the presidency of Bombay) the most effectual support in our power, we have resolved to assemble a strong military force near Calpee, the commanding officer of which is to be ordered to march, by the most practicable route to Bombay, or to such other places as future occurrences, and your directions to him, may render it expedient." And with respect to the *steps* said to be taking *by the French to obtain a settlement on the Malabar coast*, the said Warren Hastings did declare to the presidency of Bombay, "that it was the opinion of the governour-general and council, that no time ought to be lost in forming and carrying into execution such measures as might most effectually tend to frustrate such dangerous designs:"—that the said Warren Hastings, therefore, instead of fixing his attention to the preservation of peace throughout India, as it was his duty to have done, did continue to abet, encourage, and support the dangerous projects of the presidency of Bombay, and did thereby manifest a determined intention to disturb the peace of India, by the unfortunate success of which intention, and by the continued efforts of the said Hastings, the greater part of India has been for several years involved in a bloody and calamitous war. That both the court of directors and court of proprietors did specially instruct the said Warren Hastings, in all his measures, "to make the safety and prosperity of Bengal his principal object," and did heavily censure the said Warren Hastings for having employed their troops at a great distance from Bengal in a war against the Rohillas, which the house of commons have pronounced to be *iniquitous*, and did on that occasion expressly declare, "that they disapproved of all such distant expeditions as might eventually carry their forces to any situation too remote to admit of their speedy and safe return to the protection of their own provinces, in case of emergency." That the said Warren Hastings nevertheless ordered a detachment from the Bengal army to cross the Jumna, and to proceed across the peninsula by a circuitous route through the diamond country of Bundle Cund, and through the dominions of the rajah of Berar, situated in the centre of Hindostan, and did thereby strip the provinces subject to the government of Fort William of a considerable part of their established defence, and did thereby disobey the general instructions and positive orders of the court of directors (given upon occasion of a crime of the same nature committed by the said Hastings) and was guilty of a high crime and misdemeanour.

That the said Warren Hastings, having

taken the measures herein before described for supporting those of the presidency of Bombay, did, on the 23d of March, 1778, "invest the said presidency with authority to form a new alliance with Ragoba, and to engage with him in *any* scheme which they should deem expedient and safe for retrieving his affairs." That the said Hastings was then in possession of a letter from the court of directors, dated the 4th of July, 1777, containing a positive order to the presidency of Bombay, in the following words: "Though that treaty (meaning the treaty of Poorundur) is not upon the whole so agreeable to us as we could wish, still we are resolved strictly to adhere to it on our parts. You must therefore be particularly vigilant, while Ragoba is with you, to prevent him from forming any plan against what is called the ministerial party at Poona; and we hereby positively order you not to engage with him in any scheme whatever in retrieving his affairs, without the consent of the governour-general and council, or the court of directors." That the said Ragoba neither did or could form any plan for his restoration but what was and must be against the ministerial party at Poona, who held and exercised the regency of that state in the infancy of the peshwa; and that, supposing him to have formed any other *scheme*, in conjunction with Bombay, *for retrieving his affairs*, the said Hastings in giving a previous *general* authority to the presidency of Bombay, to engage with Ragoba in *any* scheme for that purpose, without knowing what such scheme might be, and thereby relinquishing and transferring to the discretion of a subordinate government that superintendence and control over all measures tending to create or provoke a war, which the law had exclusively vested in the governour-general and council, was guilty of a high crime and misdemeanour. That the said Warren Hastings, having first declared that the measures taken by him were for the support of the engagements made by the presidency of Bombay in favour of Ragoba, did afterwards, when it appeared that those negociations were *entirely laid aside*, declare that his apprehension of the consequence of a pretended *intrigue* between the Mahrattas and the French *was the sole motive of all the late measures taken for the support of the presidency of Bombay*; but that neither of the preceding declarations contained the true motives and objects of the said Hastings, whose real purpose, as it appeared soon after, was to make use of the superiority of the British power in India to carry on offensive wars, and to pursue schemes of conquest, impolitic and unjust in their design, ill-concerted in the execution, and which, as this house has resolved, have *brought great calamities on India, and enormous expenses on the East-India company*. That the said Warren Hastings, on the 22d of June, 1778, made the following declaration in council: "much less can I agree that, with such superiour advantages as we possess over every power which can oppose us, we should act *merely on the defensive*. On the contrary, if it be really true that the British arms and influence have suffered so severe a check in the western world, it is more incumbent on those who are charged with the interests of Great Britain in the east *to exert themselves for the retrieval of the national loss*. We have the means in our power, and if they are not frustrated by our own dissensions, I trust that the event of this expedition will yield every advantage, *for the attainment of which it was undertaken*." That in pursuance of the principles avowed in the preceding declaration, the said Warren Hastings, on the 9th of July, 1778, did propose, and carry it in council, that an embassy should be sent from Bengal to Moodajee Boosla, the rajah of Berar, falsely asserting that the said rajah "was, by interest and inclination, likely to join in an alliance with the British government; and suggesting that two advantages might be offered to him, as the inducements to it; first, the support of his pretensions to the sovereign power [viz. of the Mahratta empire;] second, the recovery of the captures made on his dominions by Nizam Ally." That the said Hastings, having already given full authority to the presidency of Bombay to engage the British faith to Ragonaut Row to support him in *his* pretensions to the government or to the regency of the Mahratta empire, was guilty of a high crime and misdemeanour in proposing to engage the same British faith to support the pretensions of another competitor for the same object; and that in offering to assist the rajah of Berar to recover the captures made on his dominions by the nizam, the said Hastings did endeavour, as far as depended on him, to engage the British nation in a most unjust and utterly unprovoked war against the said nizam, between whom and the East-India company a treaty of peace and friendship did then subsist, unviolated on his part; notwithstanding the said Hastings well knew that it made part of the East-India company's fundamental policy to support that prince against the Mah-

rattas, and to *consider him as one of the few remaining chiefs who were yet capable of coping with the Mahrattas*, and that it was the company's *true interest to preserve a good understanding with him*. That by holding out such offers to the rajah of Berar, the said Hastings professed to hope that the rajah *would ardently catch at the objects presented to his ambition*; and although the said Hastings did about this time lay it down as a maxim, that *there is always a greater advantage in receiving solicitations than in making advances*, he nevertheless declared to the said rajah, that *in the whole of his conduct he had departed from the common line of policy, and had made advances where others in his situation would have waited for solicitation*; that the said unjust and dangerous projects did not take effect, because the rajah of Berar refused to join or be concerned therein; yet so earnest was the said Hastings for the execution of those projects, that in a subsequent letter he daringly and treacherously assured the rajah "that if he had accepted of the terms offered him by Colonel Goddard, and concluded a treaty with the government of Bengal upon them, he should have held the obligation of it superiour to that of any engagement formed by the government of Bombay, and should have thought it his duty to maintain it, &c. against every consideration *even of the most valuable interests and safety of the English possessions entrusted to his charge*." That all the offers of the said Hastings were rejected with slight and contempt by the rajah of Berar; but the same being discovered, and generally known throughout India did fill the chief of the princes and states of India with a general suspicion and distrust of the ambitious designs and treacherous principles of the British government, and with an universal hatred of the British nation; that the said princes and states were thereby so thoroughly convinced of the necessity of uniting amongst themselves to oppose a power which kept no faith with any of them, and equally threatened them all, that, renouncing all former enmities against each other, they united in a common confederacy against the English; viz. the peshwa, as representative of the Mahratta state, and Moodajee Boosla, the rajah of Berar, that is, the principal Hindoo powers of India on one side, and Hyder Ally, and the nizam of the decan, that is, the principal Mahomedan powers of India, on the other; and that in consequence of this confederacy Hyder Ally invaded, overran, and ruined the Carnatic; and that Moodajee Boosla, instead *of ardently catching at the objects presented to his ambition* by the said Hastings, sent an army to the frontiers of Bengal; which army the said Warren Hastings was at length forced to buy off with twenty-six lacks of rupees, or 300,000*l*. sterling, after a series of negociations with the Mahratta chiefs, who commanded that army, founded and conducted on principles so dishonourable to the British name and character, that the secret committee of the house of commons, by whom the rest of the proceedings in that business were reported to the house, *have, upon due consideration, thought it proper to leave out the letter of instructions to Mr. Anderson*, viz. those given by the said Warren Hastings to the representative of the British government; and concerning which the said committee have reported in the following terms:—"The schemes of policy, by which the governour-general seems to have dictated the instructions he gave to Mr. Anderson [the gentleman deputed] will also appear in this document, as well respecting the particular succession to the rauje, as also the mode of accommodating the demand of *Chout*, the establishment of which was apparently the great aim of Moodajee's political manœvres, while the governour-general's wish to defeat it was avowedly more intent on the removal of a nominal disgrace, than on the anxiety or resolution to be freed from an expensive, if an unavoidable encumberance."

That while the said Warren Hastings was endeavouring to persuade the rajah of Berar to engage with him in a scheme to place the said rajah at the head of the Mahratta empire, the presidency of Bombay, by virtue of the powers specially vested in them for that purpose by the said Hastings, did really engage with Ragonaut Row, the other competitor for the same object, and sent a great part of their military force established for the defence of Bombay, on an expedition with Ragonaut Row, to invade the dominions of the peshwa, and to take Poona, the capital thereof; that this army being surrounded and overpowered by the Mahrattas was obliged to capitulate; and then, through the moderation of the Mahrattas, was permitted to return quietly, but *very disgracefully*, to Bombay. That, supposing the said Warren Hastings could have been justified in abandoning the project of reinstating Ragonaut Row, which he at first authorized, and promised to support, and in preferring a scheme to place the rajah of Berar at the head of the Mahratta empire, he was bound by his duty, as well as in

justice to the presidency of Bombay, to give that presidency timely notice of such his intention, and to have restrained them positively from resuming their own project; that on the contrary the said Warren Hastings did, on the 17th of August, 1778, again *authorize* the said presidency "to assist Ragoba with a military force to conduct him to Poona, and to establish him in the regency there; and so far from communicating his change of plan to Bombay, did keep it concealed from that presidency, insomuch that even so late as the 19th of February, 1779, William Hornby, then governour of Bombay, declared in council his total ignorance of the schemes of the said Hastings, in the following terms: "The schemes of the governour-general and council, with regard to the rajah of Berar, *being yet unknown to us*, it is impossible for us to found any measures on them; yet I cannot help now observing, that if, as has been conjectured, the gentlemen of that presidency have entertained thoughts of restoring, in his person, the ancient rajah government, the attempt seems likely to be attended with no small difficulty:" that whereas the said Warren Hastings did repeatedly affirm, that it was his intention to support the plan formed by the presidency of Bombay in favour of Ragoba, and did repeatedly authorize and encourage them to pursue it, he did, nevertheless, at the same time, in his letters and declarations to the peshwa, to the nizam, and to the rajah of Berar, falsely and perfidiously affirm, *that it never was nor is designed by the English chiefs to give support to Ragonaut Row; that he, Hastings, had no idea of supporting Ragonaut Row; and that the detachment he had sent to Bombay was solely to awe the French, without the least design to assist Ragonaut Row;* that supposing it to have been the sole *professed* intention of the said Hastings, in sending an army across India, to protect Bombay against a French invasion, even that pretence was false, and used only to cover the real design of the said Hastings; viz. to engage in projects of war and conquest with the rajah of Berar. That on the 11th of October, 1778, he informed the said rajah, "that the detachment would soon arrive in his territories, and depend on him, Moodajee Boosla, for its subsequent operations:" that on the 7th of December, 1778, the said Hastings revoked the powers he had before given to the presidency of Bombay over the detachment, declaring, that the event of Colonel Goddard's negociation with the rajah of Berar *was likely to cause a very speedy and essential change in the design and operations of the detachment;* and that on the 4th of March, 1779, the said Hastings, immediately after receiving advice of the defeat of the Bombay army near Poona, and when Bombay, if at any time, particularly required to be protected against a French invasion, did declare in council, that he *wished for the return of the detachment to Berar, and dreaded to hear of its proceeding to the Malabar coast;* and therefore, if the said Hastings did not think that Bombay was in danger of being attacked by the French, he was guilty of repeated falsehoods in affirming the contrary for the purpose of covering a criminal design: or, if he thought that Bombay was immediately threatened with that danger, he then was guilty of treachery in ordering an army, necessary on that supposition to the immediate defence of Bombay, to halt in Berar, to depend on the rajah of Berar for its subsequent operations, or on the *event of a negociation* with that prince, which, as the said Hastings declared, *was likely to cause a very speedy and essential change in the design and operations of the detachment;* and finally in declaring that *he dreaded to hear of the said detachment's proceeding to the Malabar coast*, whither he ought to have ordered it without delay, if, as he has solemnly affirmed, it was true that *he had been told, by the highest authority, that a powerful armament had been prepared in France, the first object of which was an attack upon Bombay;* and that he knew, with moral certainty, that all the powers of the adjacent continent were ready to join the invasion.

That through the whole of these transactions the said Warren Hastings has been guilty of continued falsehood, fraud, contradiction, and duplicity, highly dishonourable to the character of the British nation; that, in consequence of the unjust and ill-concerted schemes of the said Hastings, the British arms, heretofore respected in India, have suffered repeated disgraces, and great calamities have been thereby brought upon India; and that the said Warren Hastings, as well in exciting and promoting the late unprovoked and unjustifiable war against the Mahrattas, as in the conduct thereof, has been guilty of sundry high crimes and misdemeanours.

That by the definitive treaty of peace concluded with the Mahrattas at Poorunder, on the 1st of March, 1776, the Mahrattas gave up all right and title to the island of Salsette, unjustly taken from them by the presidency of Bombay; did also give up to the English

company for ever all right and title to their entire shares of the city and purgunnah of Broach; did also give for ever to the English company a country of three lacks of rupees revenue, near to Broach; and did also agree to pay to the company twelve lacks of rupees, in part of the expenses of the English army; and that the terms of the said treaty were honourable and advantageous to the India company.

That Warren Hastings having broken the said treaty, and forced the Mahrattas into another war, by a repeated invasion of their country, and having conducted that war in the manner herein before described, did, on the 17th of May, 1782, by the agency of Mr. David Anderson, conclude another treaty of perpetual friendship and alliance with the Mahrattas, by which the said Hastings agreed to deliver up to them all the countries, places, cities, and forts, particularly the island of Bassein, (taken from the peshwa, during the war,) and to relinquish all claim to the country of three lacks of rupees, ceded to the company by the treaty of Poorunder: that the said Warren Hastings did also, at the same time, by a private and separate agreement, deliver up to Madajee Scindia the whole of the city of Broach; that is, not only the share in the said city, which the India company acquired by the treaty of Poorunder, but the other share thereof, which the India company possessed for several years before that treaty; and that among the reasons assigned by Mr. David Anderson for totally stripping the presidency of Bombay of all their possessions on the Malabar coast, he has declared, that "from the general tenour of the *rest* of the treaty, the settlement of Bombay would be in future put on such a footing, that it might well become a question whether the possession of an inconsiderable territory, without forts, would not be attended with more loss than advantage, as it must necessarily occasion considerable expense, must require troops for its defence, and might probably in the end lead, as Scindia apprehended, to a renewal of war."

That the said Warren Hastings, having in this manner put an end to a war commenced by him without provocation, and continued by him without necessity, and having for that purpose made so many sacrifices to the Mahrattas in points of essential interest to the India company, did consent and agree to other articles, utterly dishonourable to the British name and character, having sacrificed or abandoned every one of the native princes, who, by *his* solicitations and promises had been engaged to take part with us in the war; and that he did so without necessity, since it appears, that Scindia, the Mahratta chief, who concluded the treaty, *in every part of his conduct manifested a hearty desire of establishing a peace* with us; and that this was the disposition of all the parties in the Mahratta confederacy, who were only kept together by a general dread of their common enemy, the English, and who only waited for a cessation of hostilities with us to return to their habitual and permanent enmity against each other. That the governour-general and council, in their letter of the 31st August, 1781, made the following declaration to the court of directors: "The Mahrattas have demanded the sacrifice of the person of Ragonaut Row, the surrender of the fort and territories of Ahmedabad, and of the fortress of Gualior, *which are not ours to give, and which we could not wrest from the proprietors without the greatest violation of public faith.* No state of affairs, in our opinions, could warrant our acquiescence to such requisition; and we are morally certain, that, had we yielded to them, such a consciousness of the state of our affairs would have been implied, as would have produced an effect the very reverse from that for which it was intended, by raising the presumption of the enemy, to exact yet more ignominious terms, or perhaps their refusal to accept of any; nor, in our opinion, would they have failed to excite in others the same belief, and the consequent decision of all parties against us, as the natural consequences of our decline." That the said Hastings himself, in his instructions to Mr. David Anderson, after authorizing him to restore *all* that we had conquered during the war, expressly "excepted Ahmedabad, and the territory conquered for Futty Sing Gwicowar." That nevertheless the said Hastings, in the peace concluded by him, has yielded to every one of the conditions reprobated in the preceeding declarations, as ignominious, and incompatible with public faith.

That the said Warren Hastings did abandon the ranna of Gohud, in the manner already charged; and that the said ranna has not only lost the fort of Gualior, but all his own country, and is himself a prisoner.—That the said Hastings did not interpose to obtain any terms in favour of the nabob of Bopaul, who was with great reason desirous of concealing from the Mahrattas the attachment he had borne to the English government; the said nabob having a just dread of the danger of being exposed to the resentment

of the Mahrattas, and no dependence on the faith and protection of the English. That by the 9th article of the treaty with Futty Sing it was stipulated, that, when a negociation for peace should take place, his interest should be primarily considered; and that Mr. David Anderson, the minister and representative of the governour-general and council, did declare to Scindia, that it was indispensably incumbent on us to support Futty Sing's rights.

That nevertheless every acquisition made for or by the said Futty Sing during the war, particularly the fort and territories of Ahmedabad, were given up by the said Hastings: that Futty Sing was replaced under the subjection of the peshwa (whose resentment he had provoked by taking part with us in the war,) and under an obligation to pay a tribute, not specified, to the peshwa, and to perform such services, and to be subject to such obedience as had long been established and customary; and that, no limit being fixed to such tribute or services, the said Futty Sing has been left wholly at the mercy of the Mahrattas.

That with respect to Ragoba, the said Hastings, in his instructions to Mr. Anderson, dated 4th of November, 1781, contented himself with saying, "We cannot totally abandon the interests of Ragonaut Row. Endeavour to obtain for him an adequate provision."—That Mr. Anderson declared to Madajee Scindia, "that as we had given Ragoba protection as an independent prince, and not brought him into our settlement as a prisoner, we could not *in honour* pretend to impose the smallest restraint on his will, and he must be at liberty to go wherever he pleased; that it must rest with Scindia himself to prevail on him to reside in his country; all that we could do was to agree, after a reasonable time, to withdraw our protection from him, and not to insist on the payment of the stipend to him, as Scindia had proposed, unless on the condition of his residing in some part of Scindia's territories."

That, notwithstanding all the preceding declarations, and in violation of the public faith repeatedly pledged to Ragoba, he was totally abandoned by the said Hastings in the treaty no provision whatever being made even for his subsistence, but on a condition, to which he could not submit without the certain loss of his liberty, and probable hazard of his life, namely, that he should voluntarily, and of his own accord, repair to Scindia, and quietly reside with him. That such treacherous desertion of the said Ragoba is not capable of being justified by any plea of necessity; but that in fact no such necessity existed; since it appears, that the nizam, who of all the contracting parties in the confederacy was personally most hostile to Ragoba, did himself propose, that Ragoba might have an option given him of residing within the company's territories.—That the plan of negociating a peace with the Mahrattas by application to Scindia, and through his mediation, was earnestly recommended to the said Hastings by the presidency of Bombay, so early as in February, 1779, who stated clearly to him the reasons why such application ought to be made to Scindia in preference to any other of the Mahratta chiefs, and why it would probably be successful; the truth and justice of which reasons were fully evinced in the issue, when the said Hastings, after incurring, by two years' delay, all the losses and distresses of a calamitous war, did actually pursue that very plan with much less effect or advantage than might have been obtained at the time the advice was given. That he neglected the advice of the presidency of Bombay, and retarded the peace, as well as made its conditions worse, from an obstinate attachment to his project of an alliance offensive and defensive with the rajah of Berar, the object of which was rather a new war, than a termination of the war then existing against the peshwa.

That the said Hastings did further embarrass and retard the conclusion of a peace by employing different ministers at the courts of the several confederate powers, whom he severally empowered to treat and negociate a peace. That these ministers not acting in concert, not knowing the extent of each other's commissions, and having no instructions to communicate their respective proceedings to each other, did, in effect, counteract their several negociations.—That this want of concert and of simplicity, and the mystery and intricacy in the mode of conducting the negociation on our part, was complained of by our ministers as embarrassing and disconcerting to us, while it was advantageous to the adverse party, who were thereby furnished with opportunity and pretence for delay, when it suited their purpose, and enabled to play off one set of negociators against another; that it also created jealousy and distrust in the various contending parties with whom we were treating at the same time, and to whom we were obliged to make contradictory professions, while it betrayed and en-

posed to them all our own eagerness and impatience for peace; raising thereby the general claims and pretensions of the enemy. That while Dalhousie Watherston, Esquire, was treating at Poonah and David Anderson, Esquire, in Scindia's camp, with separate powers applied to the same object, the minister at Poonah informed the said Watherston, that he had received proposals for peace from the nabob of Arcot, with the approbation of Sir Eyre Coote; that he returned other proposals to the said nabob of Arcot, who had assured him (the minister) that those proposals *would be acceded to, and that Mr. Macpherson would set out for Bengal, after which orders should be immediately despatched from the honourable the governour-general and council to the effect he wished.* That the said nabob "had promised to obtain and forward to him the expected *orders from Bengal in fifteen days*, and that he was therefore every instant in expectation of their arrival; and observed, that, when General Goddard proposed to send a confidential person to Poonah, he conceived that those orders must have actually reached him;" that therefore the treaty, formally concluded by David Anderson, was in effect and substance the same with that offered, and in reality concluded by the nabob of Arcot, with the exception only of Salsette, which the nabob of Arcot had agreed to restore to the Mahrattas. That the intention of the said Warren Hastings in pressing for a peace with the Mahrattas on terms so dishonourable, and by measures so rash and ill-concerted, was not to restore and establish a general peace throughout India, but to engage the India company in a new war against Hyder Ally and to make the Mahrattas parties therein. That the eagerness and passion with which the said Hastings pursued this object, laid him open to the Mahrattas, who depended thereon for obtaining whatever they should demand from us.—That in order to carry the point of an offensive alliance against Hyder Ally, the said Hastings exposed the negociation for peace with the Mahrattas to many difficulties and delays. That the Mahrattas were bound by a clear and recent engagement, which Hyder had never violated in any article, to make no peace with us which should not include him; that they pleaded the sacred nature of this obligation in answer to all our requisitions on this head, while the said Hastings, still importunate for his favourite point, suggested to them various means of reconciling a substantial breach of their engagement with a formal observance of it, and taught them how they might at once be parties in a peace with Hyder Ally, and in an offensive alliance for immediate hostility against him. That these lessons of public duplicity and artifice, and these devices of ostensible faith and real treachery, could have no effect but to degrade the national character, and to inspire the Mahrattas themselves, with whom we were in treaty, with a distrust in our sincerity and good faith.—That the object of this fraudulent policy (viz. the utter destruction of Hyder Ally, and a partition of his dominions) was neither wise in itself, or authorized by the orders and instructions of the company to their servants; that it was incompatible with the treaty of peace, in which Hyder Ally was included, and contrary to the repeated and best understood injunctions of the company; being, in the first place, a bargain for a new war, and in the next aiming at an extension of our territory by conquest. That the best and soundest political opinions on the relations of these states have always represented our great security against the power of the Mahrattas to depend on its being balanced by that of Hyder Ally; and the Mysore country is so placed as a barrier between the Carnatic and the Mahrattas, as to make it our interest rather to strengthen and repair that barrier, than to level and destroy it. That the said treaty of partition does express itself to be *eventual* with regard to the making and keeping of peace; but through the whole course of the said Hastings's proceeding, he did endeavour to prevent any peace with the sultan or nabob of Mysore, Tippû Saheb, and did for a long time endeavour to frustrate all the methods which could have rendered the said treaty of conquest and partition wholly unnecessary.

That the Mahrattas having taken no effectual step to oblige Hyder Ally to make good the conditions for which they had engaged in his behalf, and the war continuing to be carried on in the Carnatic by Tippoo Sultan, son and successour of Hyder Ally, the presidency of Fort St. George undertook, upon their own authority, to open a negociation with the said Tippoo; which measure, though indispensably necessary, the said Hastings utterly disapproved and discountenanced, expressly denying that there was any ground or motive for entering into any direct or separate treaty with Tippoo; and not consenting to, or authorizing any negociation for such treaty, until after a cessation of hostili-

ties had been brought about with him by the presidency of Fort St. George, in August, 1773, and the ministers of Tippoo had been received and treated with by that presidency, and commissioners, in return, actually sent by the said presidency to the court of Poonah; which late and reluctant consent and authority were extorted from him the said Hastings in consequence of the acknowledgement of his agent at the court of Madajee Scindia (upon whom the said Warren Hastings had depended for enforcing the clauses of the Mahratta treaty) of the precariousness of such dependence, and of the necessity of that direct and separate treaty with Tippoo, so long and so lately reprobated by the said Warren Hastings, notwithstanding the information and entreaties of the presidency of Fort St. George, as well as the known distresses and critical situation of the company's affairs. That though the said Warren Hastings did at length give instructions for negociating and making peace with Tippoo, expressly adding, that those instructions extended to all the points, which occurred to him or them as capable of being agitated or gained upon the occasion;—though the said instructions were sent after the said commissioners by the presidency of Fort St. George, with directions to obey them; though not only the said instructions were obeyed, but advantages gained, which did not occur to the said Warren Hastings; though the said peace formed a contrast with the Mahratta peace, in neither ceding any territory possessed by the company before the war, or delivering up any dependant or ally to the vengeance of his adversaries, but providing for the restoration of all the countries that had been taken from the company and their allies; though the supreme council of Calcutta, forming the legal government of Bengal in the absence of the said Warren Hastings, ratified the said treaty, yet the said Warren Hastings, then absent from the seat of government, and out of the province of Bengal and forming no legal or integral part of the government during such absence, did, after such ratification, usurp the power of acting as a part of such government (as if actually sitting in council with the other members of the same) in the consideration and unqualified censure of the terms of the said peace. That the nabob of Arcot, with whom the said Hastings did keep up an unwarrantable, clandestine correspondence, without any communication with the presidency of Madras, wrote a letter of complaint, dated the 27th of March, 1784, against the presidency of that place, without any communication thereof to the said presidency, the said complaint being addressed to the said Warren Hastings, the substance of which complaint was, that he (the nabob) had not been made a party to the late treaty: and although his interest had been sufficiently provided for in the said treaty, the said Warren Hastings did sign a declaration on the 23d of May, at Lucknow, forming the basis of a new article, and making a new party to the treaty, after it had been by all parties (the supreme council of Calcutta included) completed and ratified and did transmit the said new stipulation to the presidency at Calcutta solely for the purposes, and at the instigation of the nabob of Arcot; and the said declaration was made without any previous communication with the presidency aforesaid, and in consequence thereof orders were sent by the council at Calcutta to the presidency of Fort St. George, *under the severest threats in case of disobedience*; which orders, whatever were their purport, would, as an undue assumption of and participation in the government, from which he was absent, become a high misdemeanour; but, being to the purport of opening the said treaty after its solemn ratification, and proposing a new clause, and a new party to the same, was also an aggravation of such misdemeanour, as it tended to convey to the Indian powers an idea of the unsteadiness of the councils and determinations of the British government, and to take away all reliance on its engagements, and as, above all, it exposed the affairs of the nation and the company to the hazard of seeing renewed all the calamities of war, from whence by the conclusion of the treaty they had emerged, and upon a pretence so weak as that of proposing the nabob of Arcot to be a party to the same, though he had not been made a party by the said Warren Hastings in the Mahratta treaty, which professed to be for the relief of the Carnatic; though he was not a party to the former treaty with Hyder, also relative to the Carnatic; though it was not certain if the treaty were once opened, and that even Tippoo should then consent to that nabob's being a party, whether he (the said nabob) would agree to the clauses of the same, and consequently whether the said treaty, once opened, could afterwards be concluded—an uncertainty, of which he, the said Hastings, should have learned to be aware, having already once been disappointed by the said nabob's refusing to accede to a treaty, which he,

the said Warren Hastings, made for him with the Dutch about a year before.

That the said Warren Hastings having broken a solemn and honourable treaty of peace by an unjust and unprovoked war; having neglected to conclude that war when he might have done it without loss of honour to the nation; having plotted and contrived as far as depended on him, to engage the India company in another war, as soon as the former should be concluded; and having at last put an end to a most unjust war against the Mahrattas by a most ignominious peace with them, in which he sacrificed objects essential to the interests, and submitted to conditions utterly incompatible with the honour of this nation, and with his own declared sense of the dishonourable nature of those conditions; and having endeavoured to open anew the treaty concluded with Tippoo Sultan, through the means of the presidency of Fort St. George, upon principles of justice and honour, and which established peace in India; and thereby exposing the British possessions there to the renewal of the dangers and calamities of war—has by these several acts been guilty of sundry high crimes and misdemeanours.

XXI. CORRESPONDENCE.

THAT by an act of the 13th year of his present majesty, entitled "an act for establishing certain regulations for the better management of the affairs of the East India company, as well in India as in Europe," "The governour-general and council are required and directed to pay due obedience to all such orders as they shall receive from the court of directors of the said united company, and to correspond from time to time, and constantly and diligently transmit to the said court an exact particular of all advices or intelligence, and of all transactions and matters whatsoever, that shall come to their knowledge, relating to the government, commerce, revenues, or interest of the said united company."

That, in consequence of the above-recited act, the court of directors, in their general instructions of the 29th March, 1774, to the governour-general and council, did direct, "that the correspondence with the princes or country powers in India should be carried on through the governour-general only; but that all letters to be sent by him should be first approved in council; and that he should lay before the council, at their next meeting, all letters received by him in the course of such correspondence for their information."

And the governour-general and council were therein further ordered, "that, in transacting the business of their department they should enter, with the utmost perspicuity and exactness, all their proceedings whatsoever; and all dissents, if such should at any time be made by any member of their board, together with all letters sent or received in the course of their correspondence; and that broken sets of such proceedings, to the latest period possible, be transmitted to them (the court of directors;) a complete set at the end of every year, and a duplicate by the next conveyance."

That in defiance of the said orders, and in breach of the above-recited act of parliament, the said Warren Hastings has, in sundry instances, concealed from his council the correspondence carried on between him and the princes or country powers in India, and neglected to communicate the advices and intelligence he from time to time received from the British residents at the different courts in India to the other members of the government; and without their knowledge, counsel, or participation, has despatched orders on matters of the utmost consequence to the interests of the company.

That, moreover, the said Warren Hastings, for the purpose of covering his own improper and dangerous practices from his employers, has withheld from the court of directors, upon sundry occasions, copies of the proceedings had, and the correspondence carried on by him in his official capacity, as governour-general, whereby the court of directors have been kept in ignorance of matters which it highly imported them to know, and the affairs of the company have been exposed to much inconvenience and injury.

That in all such concealments and acts done or ordered without the consent and authority of the supreme council, the said Warren Hastings has been guilty of high crimes and misdemeanours.

XXII. RIGHTS OF FYZOOLA KHAN, &c. BEFORE THE TREATY OF LALL-DANG.

I.—THAT the nabob Fyzoola Khân, who now holds of the vizier the territory of Rampore, Shawabad, and certain other dis-

tricts dependent thereon, in the country of the Rohillas, is the second son of a prince, renowned in the history of Hindostan under the name of Ali Mohammed Khân, some time sovereign of all that part of Rohilcund, which is particularly distinguished by the appellation of the kutteehr.

II.—That after the death of Ali Mohammed aforesaid, as Fyzoola Khân, together with his elder brother, was then a prisoner of war at a place called Herat, "the Rohilla chiefs took possession of the ancient estates" of the captive princes; and the Nabob Fyzoola Khân was from necessity compelled to waive his hereditary rights for the inconsiderable districts of Rampore and Shawabad, then estimated to produce from six to eight lacks of annual revenue.

III.—That in 1774, on the invasion of Rohilcund by the united armies of the Vizier Shuja ul Dowla and the company, the Nabob Fyzoola Khân, "with some of his people, was present at the decisive battle of St. George," where Hafiz Rhanet, the great leader of the Rohillas, and many others of their principal chiefs were slain; but, escaping from the slaughter, Fyzoola Khân "made his retreat good towards the mountains, with all his treasure." He there collected the scattered remains of his countrymen; and as he was the eldest surviving son of Ali Mohammed Khân, as too the most powerful obstacle to his pretensions was now removed by the death of Hafiz, he seems at length to have been generally acknowledged by his natural subjects the undoubted heir of his father's authority.

IV.—That, "regarding the sacred sincerity and friendship of the English, whose goodness and celebrity is every where known, who dispossess no one," the Nabob Fyzoola Khân made early overtures for peace to Colonel Alexander Champion, commander-in-chief of the company's forces in Bengal: that he did propose to the said Colonel Alexander Champion, in three letters, received on the 14th, 24th, and 27th of May, to put himself under the protection either of the company or of the vizier, through the mediation, and with the guarantee of the company; and that he did offer "whatever was conferred upon him, to pay as much, without damage or deficiency, as any other person would agree to do;" stating at the same time his condition and pretensions herein before recited, as facts "evident as the sun;" and appealing in a forcible and awful manner to the generosity and magnanimity of this nation, "by whose means he hoped in God, that he should receive justice;" and as "the person, who designed the war, was no more;" as "in that he was himself guiltless;" and, as "he had never acted in such a manner as for the vizier to have taken hatred to his heart against him; that he might be re-instated in his ancient possessions, the country of his father."

V.—That on the last of the three dates above mentioned, that is to say, on the 27th of May, the Nabob Fyzoola Khân did also send to the commander-in-chief a vakeel, or ambassadour, who was authorized on the part of him (the Nabob Fyzoola Khân, his master) to make a specific offer of three propositions; and that by one of the said propositions, "an annual increase of near 400,000*l.* would have accrued to the revenues of our ally, and the immediate acquisition of above 300,000*l.* to the company, for their influence in effecting an accommodation perfectly consistent with their engagements to the vizier," and strictly consonant to the demands of justice.

VI.—That so great was the confidence of the Nabob Fyzoola Khân in the just, humane, and liberal feelings of Englishmen, as to "lull him into an inactivity" of the most essential detriment to his interests; since, "in the hopes, which he entertained from the interposition of our government," he declined the invitation of the Mogul to join the arms of his majesty and the Mahrattas, "refused any connexion with the Seiks," and did even neglect to take the obvious precaution of crossing the Ganges, as he had originally intended, while the river was yet fordable, a movement which would have enabled him certainly to baffle all pursuit, and probably "to keep the vizier in a state of disquietude for the remainder of his life."

VII.—That the commander-in-chief, Colonel Alexander Champion aforesaid, "thought nothing could be more honourable to this nation than the support of so exalted a character; and whilst it could be done on terms so advantageous, supposed it very unlikely, that the vakeel's proposition should be received with indifference;" that he did accordingly refer it to the administration through Warren Hastings, Esquire, then governour of Fort William, and president of Bengal; and he did at the same time enclose to the said Warren

Hastings a letter from the Nabob Fyzoola Khân to the said Hastings; which letter does not appear, but must be supposed to have been of the same tenour with those before cited to the commander-in-chief; of which also copies were sent to the said Hastings by the commander-in-chief; and he (the commander-in-chief aforesaid) after urging to the said Hastings sundry good and cogent arguments of policy and prudence, in favour of the Nabob Fyzoola Khân, did conclude by "wishing for nothing so much as for the adoption of some measure, that might strike all the powers of the east with admiration of our justice, in contrast to the conduct of the vizier."

VIII.—That in answer to such laudable wish of the said commander-in-chief, the president (Warren Hastings) preferring his own prohibited plans of extended dominion to the mild, equitable, and wise policy inculcated in the standing orders of his superiours and now enforced by the recommendation of the commander-in-chief, did instruct and "desire" him, the said commander-in-chief, "instead of soliciting the vizier to relinquish his conquest to Fyzoola Khân, to discourage it as much as was in his power;" although the said Hastings did not once express or even intimate, any doubt whatever of the Nabob Fyzoola Khân's innocence as to the origin of the war, or of his hereditary right to the territories which he claimed; but to the said pleas of the Nabob Fyzoola Khân, as well as to the arguments both of policy and justice advanced by the commander-in-chief, he, the said Hastings, did solely oppose certain speculative objects of imagined expediency, summing up his decided rejection of the proposals made by the Nabob Fyzoola Khân, in the following remarkable words:

"With respect to Fyzoola Khân, he *appears not to merit our consideration. The petty sovereign of a country estimated at six or eight lacks ought not for a moment to prove an impediment to any of our measures, or to affect the consistency of our conduct.*"

IX.—That in the aforesaid violent and arbitrary position, the said Warren Hastings did avow it to be a public principle of his government that no right, however manifest, and no innocence, however unimpeached, could entitle the weak to our protection against others, or save them from our own active endeavours for their oppression, and even extirpation, should they interfere with our notions of political expediency: and that such a principle is highly derogatory to the justice and honour of the English name, and fundamentally injurious to our interests, inasmuch as it hath an immediate tendency to excite distrust, jealousy, fear, and hatred against us among all the subordinate potentates of Hindostan.

X.—That, in prosecution of the said despotic principle, the president (Warren Hastings aforesaid) did persist to obstruct, as far as in him lay, every advance towards an accommodation between the Vizier Shuja ul Dowla, and the Nabob Fyzoola Khân; and particularly on the 16th of September, only eight days after the said Hastings, in conjunction with the other members of the select committee of Bengal, had publicly testified his *satisfaction* in the prospect of *an accommodation*, and had *hoped* that "his excellency (the vizier) would be disposed to conciliate the affections (of the Rohillas) to his government *by acceding to lenient terms*;" he, the said Hastings, did nevertheless write, and without the consent or knowledge of his colleagues, did privately despatch, a certain answer to a letter of the commander-in-chief; in which answer the said Hastings did express other *contradictory hopes*, namely, that the commander-in-chief *had resolved on prosecuting the war to a final issue*, "because (as the said Hastings explains himself) it appears very plainly that Fyzoola Khân, and his adherents, *lay at your mercy*; because I apprehend much inconvenience from delays; and because *I am morally certain that no good will be gained by negociating*;" thereby artfully suggesting his wishes of what might be, in his hopes of what had been, resolved; and plainly, though indirectly, instigating the commander-in-chief to much effusion of blood in an immediate attack on the Rohillas, posted as they were "in a very strong situation," and "combatting for all."

XI.—That the said Hastings, in the answer aforesaid, did further endeavour to inflame the commander-in-chief against the Nabob Fyzoola Khân, by representing the said nabob as "highly presuming, insolent, and evasive;" and knowing the distrust which the Nabob Fyzoola Khân entertained of the vizier, the said Hastings did "expressly desire it should be left wholly to the vizier to treat with the enemy by *his own agents*, and *in his own manner*;" though he, the said Hastings, "by no means wished the vizier to lose time by seeking an accommodation, since it would

be more effectual, more decisive, and more *consistent with his dignity, indeed with his honour, which he has already pledged*, to abide by his first offers to dictate the conditions of peace, and to admit only an acceptance without reservation, or a clear refusal from his adversary;" thereby affecting to hold up, in opposition to, and in exclusion of, the substantial claims of justice, certain ideal obligations of dignity and honour, that is to say, the gratification of pride, and the observance of an arrogant determination once declared.

XII.—That although the said answer did not reach the commander-in-chief until peace was actually concluded; and although the dangerous consequences to be apprehended from the said answer were thereby prevented, yet by the sentiments contained in the said answer, Warren Hastings, Esquire, did strongly evince his ultimate adherence to all the former violent and unjust principles of his conduct towards the Nabob Fyzoola Khân, which principles were disgraceful to the character, and injurious to the interests, of this nation; and that the said Warren Hastings did thereby, in a particular manner, exclude himself from any share of credit for "the honourable period put to the Rohilla war, which has in some degree done away the reproach so wantonly brought on the English name."

RIGHTS OF FYZOOLA KHAN UNDER THE TREATY OF LALL-DANG.

I.—THAT notwithstanding the culpable and criminal reluctance of the President Hastings, herein before recited, a treaty of peace and friendship between the Vizier Shuja ul Dowla and the Nabob Fyzoola Khân was finally signed and sealed, on the 7th October, 1774, at a place called Lall-Dang, in the presence, and with the attestation of the British commander-in-chief, Col. Alexander Champion aforesaid; and that for the said treaty the Nabob Fyzoola Khân agreed to pay, and did actually pay, the valuable consideration of half his treasure, to the amount of fifteen lacks of rupees, or 150,000*l.* sterling, and upwards.

II.—That by the said treaty the Nabob Fyzoola Khân was established in the quiet possession of Rampore, Shawabad, and "some other districts dependent thereon," subject to certain conditions, of which the more important were as follow:

"That Fyzoola Khân should retain in his service 5000 troops, and not a single man more.

"That with whomsoever the vizier should make war, Fyzoola Khân should send *two or three thousand men, according to his ability*, to join the forces of the vizier:

"And that, if the vizier should march in person, Fyzoola Khân should himself accompany him *with his troops*."

III.—That from the terms of the treaty above recited it doth plainly, positively, and indisputably appear, that the Nabob Fyzoola Khân, in case of war, was not bound to furnish more than three thousand men under any construction, unless the vizier should march in person.

IV.—That the nabob Fyzoola Khân was not positively bound to furnish so many as 3000 men, but an indefinite number, not more than three, and not less than two thousand; that, of the precise number within such limitations, the ability of Fyzoola Khân, and not the discretion of the vizier, was to be the standard; and that such ability could only mean that, which was equitably consistent not only with the external defence of his jaghire, but with the internal good management thereof, both as to its police and revenue.

V.—That even in case the vizier should march in person, it might be reasonably doubted whether the personal service of the Nabob Fyzoola Khân "with his troops," must be understood to be, with *all* his troops, or only with the number before stipulated, not more than three, and not less than two thousand men; and that the latter is the interpretation finally adopted by Warren Hastings aforesaid, and the council of Bengal, who, in a letter to the court of directors, dated April 5th, 1783, represent the clauses of the treaty relative to the stipulated aid as meaning simply, that Fyzoola Khân "should send 2 or 3000 men to join the vizier's forces, or attend in person in case it should be requisite."

VI.—That from the aforesaid terms of the treaty it doth not specifically appear of what the stipulated aid should consist, whether of horse or foot, or in what proportion of both; but that it is the recorded opinion, maturely formed by the said Hastings and his council, in January, 1783, that even "a single horse-

man included in the aid which Fyzoola Khân might furnish, would prove a literal compliance with the stipulation."

VII.—That, in the event of any doubt fairly arising from the terms of the treaty, the Nabob Fyzoola Khân, in consideration of his hereditary right to the whole country, and the price by him actually paid for the said treaty, was in equity entitled to the most favourable construction.

VIII.—That, from the attestation of Colonel Champion aforesaid, the government of Calcutta acquired the same right to interpose with the vizier for the protection of the Nabob Fyzoola Khân, as they the said government had before claimed from a similar attestation of Sir Robert Barker to assist the vizier in extirpating the whole nation of the said Fyzoola Khân; more especially, as in the case of Sir Robert Barker, it was contrary to the remonstrances of the then administration, and the furthest from the intentions of the said Barker himself, that his attestation should involve the company; but the attestation of Colonel Champion was authorized by all the powers of the government, as a "sanction" intended "to add validity" to the treaty: that they the said government, and in particular the said Warren Hastings, as the first executive member of the same, were bound by the ties of natural justice duly to exercise the aforesaid right, if need were; and that their duty so to interfere was more particularly enforced by the spirit of the censures past both by the directors and proprietors in the Rohilla war, and the satisfaction expressed by the directors "in the honourable end put to that war."

GUARANTEE OF THE TREATY OF LALL-DANG.

I.—That during the life of the Vizier Shuja ul Dowla, and for some time after his death, under his son and successour Aseph ul Dowla, the Nabob Fyzoola Khân did remain without disturbance or molestation; that he did all the while imagine his treaty to be under the sanction of the company from Colonel Champion's affixing his signature thereto as a witness, "which signature, as he (Fyzoola Khân) supposed," rendered the company the *arbitrators* between the vizier and himself, in case of disputes; and that being "a man of sense, but *extreme pusillanimity*, a good farmer, fond of wealth, *not possessed of the passion of ambition*," he did peaceably apply himself to "improve the state of his country; and did, by his own *prudence and attention*, increase the revenues thereof beyond the amount specified in Shuja ul Dowla's grant."

II.—That in the year 1777, and in the beginning of the year 1778, being "alarmed at the young vizier's resumption of a number of jaghires granted by his father to different persons, and the injustice and oppression of his conduct in general;" and having now learned (from whom it does not appear, but probably from some person supposed of competent authority,) that Colonel Champion formerly witnessed the treaty as a private person, the Nabob Fyzoola Khân did make frequent and urgent solicitations to Nathaniel Middleton, Esquire, then resident at Oude, and to Warren Hastings aforesaid, then governour-general of Bengal, "for a renovation of his (the Nabob Fyzoola Khân's) treaty with the late vizier, and the guarantee of the company," or for "a separate agreement with the company for his defence;" considering them (the company) as "the only power in which he had confidence, and to which he could look for protection."

III.—That the said resident Middleton, and the said governour-general Hastings, did not, as they were in duty bound to do, endeavour to allay the apprehensions of the Nabob Fyzoola Khân by assuring him of his safety under the sanction of Colonel Champion's attestation aforesaid; but by their criminal neglect, if not by positive expressions (as there is just ground from their subsequent language and conduct to believe) they, the said Middleton and the said Hastings, did at least keep alive and confirm (whoever may have originally suggested) the said apprehension; and that such neglect alone was the more highly culpable in the said Hastings, inasmuch as he, the said Hastings, in conjunction with other members of the select committee of the then presidency of Bengal, did, on the 17th of September, 1774, write to Colonel Champion aforesaid, publicly authorizing him, the said Colonel Champion, to join his *sanction* to the accommodations agreed on (between the Vizier Shuja ul Dowla, and the Nabob Fyzoola Khân) *to add to their validity*; and on the 6th of October following did again write to the said Colonel Champion more explicitly, to join his sanction, "either

by attesting the treaty, or *acting as guarantee* on the part of the company for the performance of it;" both which letters, though they did not arrive until after the actual signature of the said Colonel Champion, do yet incontrovertibly mark the solemn intention of the said committee (of which the said Hastings was president) that the sanction of Colonel Champion's attestion should be regarded as a public, not a private, sanction; and it was more peculiarly incumbent on such persons, who had been members of the said committee, so to regard the same.

IV.—That the said Warren Hastings was further guilty of much criminal concealment for the space of "twelve months," inasmuch as he did not lay before the board the frequent and urgent solicitations, which he, the said Hastings, was continually receiving from the Nabob Fyzoola Khân, until the 9th of March, 1778; on which day the said Hastings did communicate to the council a public letter of the aforesaid Middleton, resident at Oude, acquainting the board, that he (the said Middleton) taking occasion from a late application of Fyzoola Khân for the company's guarantee, had deputed Mr. Daniel Octavus Barwell (assistant resident at Benares, but then on a visit the resident Middleton at Lucknow) to proceed with a special commission to Rampore, there to inquire on the spot into the truth of certain reports circulated to the prejudice of Fyzoola Khân, which reports, however, the said Middleton did afterwards confess himself to have "*always" thought "in the highest degree, improbable.*"

That the said resident Middleton did "request to know whether, on proof of Fyzoola Khân's innocence, the honourable board would be pleased to grant him (the resident) permission to comply with his (Fyzoola Khân's) request of the company's guarantying his treaty with the vizier." And the said Middleton, in excuse for having irregularly "availed himself of the abilities of Mr. Daniel Barwell," who belonged to another station, and for deputing him with the aforesaid commission to Rampore, without the previous knowledge of the board, did urge the plea "*of immediate necessity*;" and that such plea, if the necessity really existed, was a strong charge and accusation against the said Warren Hastings, from whose criminal neglect and concealment the urgency of such necessity did arise.

V.—That the governour-general, Warren Hastings aforesaid, did immediately move "that the board approve the deputation of Mr. Daniel Barwell, and that the resident (Middleton) be authorized to offer the company's guarantee for the observance of the treaty subsisting between the vizier and Fyzoola Khân, provided it meets with the vizier's concurrence;" and that the governour-general's proposition was resolved in the affirmative; the usual majority of council then consisting of Richard Barwell, Esquire, a near relation of Daniel Octavus Barwell, aforesaid, and the governour-general Warren Hastings, who, in case of an equality, had the casting voice.

VI.—That on receiving from Mr. Daniel Barwell full and early assurance of Fyzoola Khân's "having preserved every article of his treaty inviolate," the resident Middleton applied for the vizier's concurrence, which was readily obtained; the vizier however promising that he gave his consent, "taking it for granted, that on Fyzoola Khân's receiving the treaty, and khelaut (or robe of honour) he was to make him a return of the complimentary presents usually offered on such occasions and *of such an amount as should be a manifestation of Fyzoola Khân's due sense of his friendship, and suitable to his excellency's rank to receive*;" and that the resident Middleton "did make himself in some measure responsible for the said presents being obtained," and did write to Mr. Daniel Barwell accordingly.

VII.—That agreeably to the resolution of council herein before recited, the solicited guarantee, under the seal of the resident Middleton, thus duly authorized on behalf of the company, was transmitted, together with the renewed treaty, to Mr. Daniel Barwell aforesaid at Rampore; and that they were both by him, the said Barwell, presented to the Nabob Fyzoola Khân, with a solemnity not often paralleled, "in the presence of the greatest part of the nabob's subjects, who were assembled, that the ceremony might create a full belief in the breasts of all his people, that the company would protect him as long as he strictly adhered to the *letter of* his treaty."

VIII.—That in the conclusion of the said ceremony the Nabob Fyzoola Khân did deliver to the said Barwell, for the use of the

vizier, a nuzzer (or present) of elephants, horses, &c. and did add thereto a lack of rupees, or 10,000*l.* and upwards; which sum the said Barwell, "not being authorized to accept any pecuniary consideration, did at first refuse;" but upon Fyzoola Khân's urging, that on such occasions it was the invariable custom of Hindostan, and *that it must on the present be expected, as it had been formerly the case*" (but when, does not appear:) he, the said Barwell, did accept the "said lack in the name of the vizier," our ally, "in whose wealth (as Warren Hastings on another occasion observed) we should participate," and on whom we at that time had an accumulating demand.

IX.—That over and above the lack of rupees thus presented to the vizier, the Nabob Fyzoola Khân did likewise offer one other lack of rupees, or upwards of 10,000*l.* more, for the company, "as some acknowledgment of the obligation he received: that although such acknowledgment was not pretended to be the invariable custom of Hindostan on such occasions, however it might on the present be expected," Mr. Daniel Barwell aforesaid (knowing probably the disposition and views of the then actual government at Calcutta) did not even at first, decline the said offer, but, as he was not empowered to accept it, did immediately propose taking a bond for the amount, until the pleasure of the board should be known.

That the offer was accordingly communicated by the said Barwell to the resident Middleton, to be by him, the resident, referred to the board; and that it was so referred; that in reply to the said reference of the resident Middleton, the governour-general (Warren Hastings) did move and carry a vote of council, "authorizing Mr. Middleton to accept the offer made by Fyzoola Khân to the company of one lack of rupees," without assigning any reason whatever in support of the said motion, notwithstanding it was objected by a member of the board, "that, if the measure was right, it became us to adopt it without such a consideration;" and that "our accepting of the lack of rupees as a recompense for our interposition is beneath the dignity of this government (of Calcutta) and will discredit us in the eyes of the Indian powers."

That the acceptance of the said sum, in this circumstance, was beneath the dignity of the said government, and did tend so to discredit us; and that the motion of the said Hastings for such acceptance was therefore highly derogatory to the honour of this nation.

X.—That the aforesaid member of the council did further disapprove altogether of the guarantee, "as unnecessary;" and that another member of council, Richard Barwell, Esquire, the near relation of Daniel Octavus Barwell, herein before named, did declare (but after the said guarantee had taken place) that "this government (of Calcutta) was in fact engaged, by Colonel Champion's signature being to the treaty with Fyzoola Khân," that the said unnecessary guarantee did not only subject to a heavy expense a prince, whom we were bound to protect, but did further produce in his mind the following obvious and natural conclusions; namely, "*that the signature of any person, in whatever public capacity he at present appears, will not be valid and of effect, as soon as some other shall fill his station*;" a conclusion, however, immediately tending to the total discredit of all powers delegated from the board to any individual servant of the company, and consequently to clog, perplex, and embarrass in future all transactions carried on at a distance from the seat of government, and to disturb the security of all persons possessing instruments already so ratified; yet the only conclusion left to Fyzoola Khân, which did not involve some affront either to the private honour of the company's servants, or to the public honour of the company itself; and that the suspicions, which originated from the said idea in the breast of Fyzoola Khân, to the prejudice of the resident Middleton's authority, did compel the governour-general, Warren Hastings, to obviate the bad effects of his first motion for the guarantee by a second motion; namely, "that a letter be written to Fyzoola Khân from myself, confirming the obligations of the company, as guarantees to the treaty formed between him and the vizier; which will be equivalent in its effect, though not in form, to an engagement sent him with the company's seal affixed to it."

XII.—That whether the guarantee aforesaid was or was not necessary; whether it created a new obligation, or but more fully recognized an obligation previously existing; the governour-general, Warren Hastings, by the said guarantee, did, in the most explicit manner, pledge and commit the public faith of the company, and the nation; and that by the subsequent letter of the said Hastings

(which he at his own motion wrote, confirming to Fyzoola Khân the aforesaid guarantee) the said Hastings did again pledge and commit the public faith of the company and the nation, in a manner (as the said Hastings himself remarked) "equivalent to an engagement with the company's seal affixed to it;" and more particularly binding the said Hastings personally to exact a due observance of the guarantied treaty, especially to protect the Nabob Fyzoola Khân against any arbitrary construction, or unwarranted requisition of the vizier.

THANKS OF THE BOARD TO FYZOOLA KHAN.

THAT soon after the completion of the guarantee, in the same year, 1778, intelligence was received in India of a war between England and France: that on the first intimation thereof the Nabob Fyzoola Khân, "being indirectly sounded," did show much "promptness to render the company any assistance within the bounds of his finances and ability;" and that by the suggestion of the resident Middleton, herein before named, he (the Nabob Fyzoola Khân) in a letter to the governour-general and council, did make a voluntary "offer to maintain 2000 cavalry (all he had) for our service;" "though he was under no obligation to furnish the company a single man."

II.—That the Nabob Fyzoola Khân did even "anticipate the wishes of the board;" and that "on an application made to him by Lieutenant Colonel Muir," the nabob Fyzoola Khân did, "without hesitation or delay," furnish him (the said Muir) with 500 of his best cavalry.

III.—That the said conduct of the Nabob Fyzoola Khân was communicated by the company's servants, both to each other, and to their employers, with expressions of "pleasure" and "particular satisfaction," as an event "even surpassing their expectations:" that the governour-general Warren Hastings, was officially requested to convey "the thanks of the board;" and that, not satisfied with the bare discharge of his duty under the said request, he, the said Hastings, did, on the 8th of January, 1779, write to Fyzoola, "that *in his own name*," as well as "that of the board, he (the said Hastings,) returned him the warmest thanks for this instance of his faithful attachment to the company and the English nation."

IV.—That, by the strong expressions above recited, the said Warren Hastings did deliberately and emphatically add his own particular confirmation to the general testimony of the Nabob Fyzoola Khân's meritorious fidelity, and of his consequent claim on the generosity, no less than the justice, of the British government.

DEMAND OF FIVE THOUSAND HORSE.

I.—THAT notwithstanding his own private honour thus deeply engaged, notwithstanding the public justice and generosity of the company and the nation thus solemnly committed, disregarding the plain import and positive terms of the guarantied treaty, the governour-general, Warren Hastings aforesaid in November, 1780, (while a body of Fyzoola Khân's cavalry, voluntarily granted, were still serving under a British officer) did recommend to the vizier "to require from Fyzoola Khân the quota of troops stipulated by treaty to be furnished by the latter for his (the vizier's) service, being FIVE THOUSAND HORSE;" though, as the vizier did not march in person, he was not, under any construction of the treaty, entitled by stipulation to more than "*two or three thousand troops*," horse and foot, "according to the ability of Fyzoola Khân;" and that, whereas the said Warren Hastings would have been guilty of very criminal perfidy, if he had simply neglected to interfere as a guarantee against a demand thus plainly contrary to the faith of the treaty, so he aggravated the guilt of his perfidy, in the most atrocious degree, by being himself the first mover and instigator of that injustice, which he was bound by so many ties on himself, the company, and the nation, not only not to promote, but by every exertion of authority, influence, and power, to control, to divert, or to resist.

II.—That the answer of Fyzoola Khân to the vizier did represent, with many expressions of deference, duty, and allegiance, that

The whole force allowed him was but "five thousand men," and that "these consisted of two thousand horse, and three thousand foot; which (he adds) in consequence of our intimate connexion are equally yours and the company's;" though he does subsequently in-

timate, that "the three thousand foot are for the management of the concerns of his jaghire, and without them the collections can never be made in time."

That on the communication of the said answer to the governour-general, Warren Hastings, he, the said Hastings (who as the council now consisted only of himself and Edward Wheler, Esquire, "united in his own person all the powers of government") was not induced to relax from his unjust purpose: but did proceed with new violence to record, that

"The Nabob Fyzoola Khân *had evaded the performance of his part of the treaty* between the late Nabob Shuja ul Dowla and him, to which the honourable company were guarantees, and upon which he was lately summoned to furnish the stipulated number of troops, which he is obliged to furnish on the condition, by which he holds the jaghire granted to him."

That by the vague and indefinite term of evasion, the said Warren Hastings did introduce a loose and arbitrary principle of interpreting formal engagements, which ought to be regarded, more especially, by guarantees, in a sense the most literally scrupulous and precise.

That he charged with such evasion a moderate, humble, and submissive representation on a point, which would have warranted a peremptory refusal, and a positive remonstrance; and that in consequence of the said imputed evasion, he indicated a disposition to attach such a forfeiture as in justice could only have followed from a gross breach of treaty; though the said Hastings did not then pretend any actual infringement even of the least among the conditions, to which, in the name of the company, he, the said Hastings, was the executive guarantee.

III.—That however "the number of troops stipulated by treaty may have been understood," at the period of the original demand, "to be five thousand horse," yet the said Warren Hastings, at the time when he recorded the supposed evasion of Fyzoola Khân's answer to the said demand, could not be unacquainted with the express words of the stipulation, as a letter of the vizier, inserted in the same consultation, refers the governour-general to enclosed copies "of all engagements entered into by the late vizier, and by himself (the reigning vizier) with Fyzoola Khân;" and that the treaty itself therefore was at the very moment before the said Warren Hastings; which treaty (as the said Hastings observed with respect to another treaty, in the case of another person) "most assuredly does not contain a syllable to justify his conduct; but by the unexampled latitude which he assumes in his constructions, he may, if he pleases, extort this or any other meaning from any part of it."

IV.—That the vizier himself appears by no means to have been persuaded of his own right to five thousand horse under the treaty; since in his correspondence on the subject he (the vizier) no where mentions the treaty as the ground of his demand, except where he is recapitulating to the governour-general, Warren Hastings, the substance of his, the said Hastings's own letters; on the contrary, the vizier hints his apprehensions lest Fyzoola Khân should appeal to the treaty against the demand, as a breach thereof, in which case he, the vizier, informs the said Hastings of the projected reply: "Should Fyzoola Khân (says the vizier) mention any thing of the tenour of the treaty, the *first breach of it has been committed by him* in keeping up more men than allowed of by the treaty: *I have accordingly sent a person to settle that point also.* In case he should mention to me any thing respecting the treaty, I will then reproach him with having kept up too many troops, and will oblige him to send the five thousand horse;" thereby clearly intimating, that as a remonstrance against the demand, as a breach of treaty could only be answered by charging a prior breach of treaty on Fyzoola Khân, so, by annulling the whole treaty, to reduce the question to a mere question of force, and thus "oblige Fyzoola Khân to send the five thousand horse:" "for (continues the vizier) if, when the company's affairs, on which my honour depends, require it, Fyzoola Khân will not lend his assistance, *what* USE *is there to continue the country to him?*"

That the vizier actually did make his application to Fyzoola Khân for the 5000 horse, not as for an aid, to which he had a just claim, but as for something over and above the obligations of the treaty, something "that would give increase to their friendship, and satisfaction to the nabob governour," (meaning the said Hastings) whose directions he represents as the motive "of his call for the 5000 horse to be employed" not in his, the vizier's, but in the "company's service."

And, that the aforesaid Warren Hastings did, therefore, in recording the answer of Fyzoola Khân as an evasion of treaty, act in no-

torious contradiction, not only to that, which ought to have been the fair construction of the said treaty, but to that, which he the said Hastings must have known to be the vizier's own interpretation of the same, disposed as the vizier was to reproach Fyzoola Khân with breach of treaty," and to "send up persons who should settle points with him."

V.—That the said Warren Hastings, not thinking himself justified, on the mere plea of an evasion, to push forward his proceedings to that extremity, which he seems already to have made his scope and object, and seeking some better colour for his unjust and violent purposes, did further move, that commissioners should be sent from the vizier and the company to Fyzoola Khân, to insist on a clause of a treaty, which no where appears, being essentially different from the treaty of Lall-Dang, though not in the part on which the requisition is founded; and the said Hastings did then, in a style unusually imperative, proceed as follows:

"*Demand immediate delivery of* 3000 *cavalry; and if he should evade, or refuse compliance, that the deputies shall deliver him a formal protest against him for breach of treaty*, and return, making this report to the vizier, which Mr. Middleton is to transmit to the board."

VI.—That the said motion of the governour-general Hastings was ordered accordingly, the council, as already has been herein related, consisting but of two members, and the said Hastings consequently "uniting in his own person all the powers of government."

VII.—That, when the said Hastings ordered the said demand for 3000 cavalry, he, the said Hastings, well knew, that a compliance therewith, on the part of the Nabob Fyzoola Khân, was utterly impossible; for he, the said Hastings, had at the very moment before him a letter of Fyzoola Khân, stating that he, Fyzoola Khân, had "but two thousand cavalry" altogether; which letter is entered on the records of the company, in the same consultation, immediately preceding the governour-general's minute. That the said Hastings therefore knew, that the only possible consequence of the aforesaid demand necessarily and inevitably must be a protest for a breach of treaty; and the court of directors did not hestitate to declare, that the said demand "carried the appearance of a determination to create a pretext for depriving him (Fyzoola Khân) of his jaghire entirely, or to leave him at the mercy of the vizier."

VIII.—That Richard Johnson, Esquire, assistant resident at Oude, was, agreeably to the afore-mentioned order of council, deputed commissioner from Mr. Middleton and the vizier to Fyzoola Khân; but that he did early give the most indecent proofs of glaring partiality, to the prejudice of the said Fyzoola Khân; for that the very next day (as it seems) after his arrival, he the said Johnson, from opinions imbibed in his journey, did state himself to be "unwilling to draw any favourable or flattering inferences relatively to the object of his mission;" and did studiously seek to find new breaches of treaty; and without any form of regular inquiry whatever, from a single glance of his eye in passing, did take upon him to pronounce "the Rohilla soldiers, in the district of Rampore alone, to be not less than 20,000," and the grant of course to be forfeited. And that such a gross and palpable display of a pre-determination to discover guilt did argue in the said Johnson a knowledge, a strong presumption, or a belief, that such representations would be agreeable to the secret wishes and views of the said Hastings, under whose orders he the said Johnson acted, and to whom all his reports were to be referred.

IX.—That the said Richard Johnson did soon after proceed to the immediate object of his mission, "which (the said Johnson relates) was short to a degree." The demand was made, and "a flat refusal" given; the question was repeated with like effect. The said Johnson, in presence of proper witnesses, then drew up his protest, "together with a memorandum of a *palliative offer* made by the nabob Fyzoola Khân," and inserted in the protest:

"That he would, in compliance with the demand, and *in conformity to the treaty, which specified no definitive number of cavalry or infantry, only expressing troops*, furnish 3000 men; viz. he would, in addition to the 1000 cavalry already granted, give 1000 more, when and wheresoever required, and 1000 foot;" together with one year's pay in advance, and funds for the regular payment of them in future.

And this (the said Richard Johnson observes) "I put down at his (the Nabob Fyzoola Khân's) particular desire, but otherwise useless, as my orders (which orders do not appear) *were not to receive any palliation*,

but a negative or affirmative;" though such palliation, as it is called by the said Johnson, might be, as it was, in the strictest conformity to the treaty.

X.—That in the said offer the Nabob Fyzoola Khân, instead of palliating, did at once admit the extreme right of the vizier, under the treaty, by agreeing to furnish 3000 men, when he (Fyzoola Khân) would have been justified in pleading his inability to send more than two thousand. That such inability would not (as appears) have been a false and evasive plea, but perfectly true and valid; as the three thousand foot maintained by Fyzoola Khân were for the purposes of his internal government, for which the whole three thousand must have been demonstrably necessary: and that the Nabob Fyzoola Khân, by declining to avail himself of a plea so fair, so well-founded, and so consonant to the indulgence expressly acknowledged in the treaty, and by thus meeting the specific demand of the vizier as fully as, according to his own military establishment, he could, did for the said offer deserve rather the thanks of the said vizier and the company, than the protest, which the aforesaid Johnson, under the orders of Warren Hastings, did deliver.

XI.—That the report of the said protest, as well as the former letter of the said Johnson, whereby the resident Middleton transmitted to the board, together with a letter from the vizier, founded on the said report and letter of the said Johnson, and proposing in consequence "to resume the grant, and to leave Fyzoola Khân to join his other faithless brethren, who were sent across the Ganges."

That the said papers were read in council on the 4th of June, 1781, when the governour-general, Warren Hastings, did move and carry a vote to suspend a final resolution on the same; and the said Hastings did not express any disapprobation of the proceedings of the said Johnson; neither did the said Hastings assign any reasons for his motion of suspension, which passed without debate. That in truth the said Hastings had then projected a journey up the country to meet the vizier, for the settlement of articles relative to the regulation of Oude and its dependencies, among which was included the jaghire of Fyzoola Khân; and the said Hastings, for the aforesaid purposes, did, on the 3d of July, by his own casting vote, grant to himself, and did prevail on his colleague, Edward Wheler, Esquire, to grant a certain illegal delegation of the whole powers of the governour-general and council; and on the seventh of the same month did proceed on his way to join the vizier at a place called Chunar on the borders of Benares; and that the aforesaid vote of suspending a final resolution on the transactions with Fyzoola Khân, was therefore in substance and effect a reference thereof by the said Hastings, from himself in council with his colleague Wheler, to himself in conference and negociation with the vizier, who from the first demand of the 5000 horse, had taken every occasion of showing his inclination to dispossess Fyzoola Khân, and who before the said demand (in a letter, which does not appear, but which the vizier himself quotes as antecedent to the said demand) had complained to the said Hastings of the "injury and irregularity in the management of the provinces bordering on Rampore, arising from Fyzoola Khân having the uncontrolled dominion of that district."

TREATY OF CHUNAR.

I.—THAT the governour-general, Warren Hastings, being vested with the illegal powers before recited, did, on the 12th of September, 1781, enter into a treaty with the vizier at Chunar; which treaty (as the said Hastings relates) was drawn up "from a series of requisitions presented to him (the said Hastings) by the vizier," and by him received "with an instant and unqualified assent to each article;" and that the said Hastings assigns his reasons for such ready assent in the following words: "I considered the subjects of his (the vizier's) requests, as essential to the reputation of our government, and no less to our interest than his."

II.—That in the said treaty of Chunar, the third article is as follows:

"That as Fyzoola Khân has by this breach of treaty forfeited the protection of the English government, and causes by his continuance in his present independent state great alarm and detriment to the nabob vizier, he be permitted, *when time shall suit*, to resume his lands, and pay him in money, through the resident, the amount stipulated by treaty, after deducting the amount and charges of the troops he stands engaged to furnish by treaty; which amount shall be passed to the

account of the company during the continuance of the present war."

III.—That for the better elucidation of his policy in the several articles of the treaty above mentioned, the said Hastings did send to the council of Calcutta (now consisting of Edward Wheler and John Macpherson, Esquires,) two different copies of the said treaty, with explanatory minutes opposed to each article; and that the minute opposed to the third article is thus expressed:

"The conduct of Fyzoola Khân, in refusing the aid demanded, though [1]*not an absolute breach of treaty*, was evasive and uncandid. [2]*The demand was made for* 5000 *cavalry.* [3]*The engagement in the treaty is literally for* 5000 *horse and foot;* Fyzoola Khân could not be ignorant, that we had no occasion for any succours of infantry from him, and that cavalry would be of the most essential service. [4]*So scrupulous an attention to literal expression, when a more liberal interpretation would have been highly useful and acceptable to us, strongly marks his unfriendly disposition, though it may not impeach his fidelity, and leaves him little claim to any exertions from us for the continuance of his jaghire. But* [5]*I am of opinion that neither the vizier's nor the company's interests would be promoted by depriving Fyzoola Khân of his independency, and I have* [6]*therefore reserved the execution of this agreement to an indefinite term; and our government may always interpose to prevent any ill effects from it.*"

IV.—That in his aforesaid authentic evidence of his own purposes, motives, and principles, in the third article of the treaty of Chunar, the said Hastings hath established diverse matters of weighty and serious crimination against himself.

1st, That the said Hastings doth acknowledge therein, that he did in a public instrument, solemnly recognize, "*as a breach of treaty*," and as such did subject to the consequent penalties, an act, which he the said Hastings did at the same time think, and did immediately declare to be "*no breach of treaty*;" and by so falsely and unjustly proceeding against a person under the company's guarantee, the said Hastings, on his own confession, did himself break the faith of the said guarantee.

2d, That in justifying this breach of the company's faith, the said Hastings doth *wholly abandon his second peremptory demand for the* 5000 *horse*, and the protest consequent thereon; and the said Hastings doth thereby himself condemn the violence and injustice of the same.

3dly, That in recurring to the original demand of five thousand horse as the ground of his justification, the said Hastings doth falsely assert "the engagement in the treaty to be *literally* FIVE *thousand horse and foot*," whereas it is in fact for TWO *or* THREE *thousand men*; and the said Hastings doth thereby wilfully attempt to deceive and mislead his employers, which is a high crime and misdemeanour in a servant of so great trust.

4thly, That with a view to his further justification, the said Hastings doth advance a principle, that "a *scrupulous attention to the literal expression*" of a guarantied treaty "*leaves*" to the person so observing the same "*but little claim to the exertions*" *of a guarantee on his behalf*; that such a principle is utterly subversive of all faith of guarantees, and is therefore highly criminal in the first executive member of a government, that must necessarily stand in that mutual relation to many.

5thly, That the said Hastings doth profess his opinion of an article, to which he gave an "*instant and unqualified assent*," that it was a measure, "*by which neither the vizier's nor the company's interests would be promoted*," but from which without some interposition, "*ill effects must be expected*;" and that the said Hastings doth thereby charge himself with a high breach of trust towards his employers.

6thly, That the said Hastings having thus confessed, that consciously and wilfully (from what motives he hath not chosen to confess) he did give his formal sanction to a measure both of injustice and impolicy, he the said Hastings doth urge in his defence, that he did at the same time insert words "reserving the execution of the said agreement to an indefinite term;" with an intent that it might in truth be never executed at all; but "that our government might always interpose," without right, by means of an indirect and undue influence, to prevent the ill effects following from a collusive surrender of a clear and authorized right to interpose; and the said Hastings doth thereby declare himself to have introduced a principle of duplicity, deceit, and double-dealing, into a public engagement which ought in its essence to be clear, open, and explicit; that such a declaration tends to shake and overthrow the confidence of all in the most solemn instruments of any person so declar-

ing, and is therefore an high crime and misdemeanour in the first executive member of government, by whom all treaties and other engagements of the state are principally to be conducted.

V.—That, by the explanatory minute aforesaid, the said Warren Hastings doth further, in the most direct manner, contradict his own assertions in the very letter which enclosed the said minute to his colleagues; for that one of the articles to which he there gave "an instant and unqualified assent, as no less to our interest than to the vizier's," he doth here declare unequivocally to be neither to our interest nor the vizier's; and the "unqualified assent" given to the said article is now so qualified, as wholly to defeat itself. That by such irreconcileable contradictions, the said Hastings doth incur the suspicion of much criminal misrepresentation in other like cases of unwitnessed conferences; and in the present instance (as far as it extends) the said Hastings doth prove himself to have given an account both of his actions and motives, by his own confession untrue, for the purpose of deceiving his employers, which is an high crime and misdemeanour in a servant of so great trust.

VI.—That the said third article of the treaty of Chunar, as it thus stands explained by the said Hastings himself, doth on the whole appear designed to hold the protection of the company in suspense; that it acknowledges all right of interference to cease, but leaves it to our discretion to determine when it will suit our conveniency to give the vizier the liberty of acting on the principles by us already admitted: that it is dexterously constructed to balance the desires of one man, rapacious and profuse, against the fears of another, described as "of extreme pusillanimity, and wealthy:" but that, whatever may have been the secret objects of the artifice and intrigue confessed to form its very essence, it must on the very face of it necessarily implicate the company in a breach of faith, whichever might be the event, as they must equally break their faith, either by withdrawing their guarantee unjustly, or by continuing that guarantee in contradiction to this treaty of Chunar; that it thus tends to hold out to India, and to the whole world, that the public principle of the English government is a deliberate system of injustice, joined with falsehood; of impolicy, of bad faith, and treachery; and that the said article is therefore in the highest degree derogatory to the honour, and injurious to the interests, of this nation.

CONSEQUENCES OF THE TREATY OF CHUNAR.

I.—THAT in consequence of the treaty of Chunar, the governour-general, Warren Hastings, did send official instructions, respecting the various articles of the said treaty, to the said resident Middleton; and that in a postscript, the said Hastings did forbid the resumption of the Nabob Fyzoola Khân's jaghire, "until circumstances may render it more expedient, and easy to be attempted, than the present more material pursuits of government make it appear;" thereby intimating a positive limitation of the indefinite term in the explanatory minute above recited; and confining the suspension of the article to the pressure of war.

II.—That soon after the date of the said instructions, and within two months of the signature of the treaty of Chunar, the said Hastings did cause Sir Elijah Impey, knight, his majesty's chief justice at Fort William, to discredit the justice of the crown of Great Britain by making him the channel of unwarrantable communication; and did, through the said Sir Elijah, signify to the resident Middleton his (the said Hastings's) "approbation of a *subsidy* from Fyzoola Khân."

III.—That the resident, in answer, represents the proper equivalent for 2000 horse, and 1000 foot, (the forces offered to Mr. Johnson by Fyzoola Khân) to be twelve lacks, or 120,000*l.* sterling, and upwards, each year; which the said resident supposes is considerably beyond what he (Fyzoola Khân) *will voluntarily pay:* "however, if it is your wish that the claim should be made, I am ready to take it up, and you may be assured nothing in my power shall be left undone to carry it through."

IV.—That the reply of the said Hastings doth not appear; but that it does appear on record, that "a negociation (Mr. Johnson's) was begun for Fyzoola Khân's cavalry to act with General Goddard, and on his (Fyzoola Khân's) *evading* it, *that a sum of money was demanded.*"

V.—That in the months of February, March, and April, the resident Middleton did repeatedly propose the resumption of Fyzoola Khân's jaghire, agreeably to the treaty of Chunar; and that, driven to extremity (as the said Hastings supposes) "by the public menaces and denunciations of the resident and minister," Hyder Beg Khân, a creature of the said Hastings (and both the minister and resident acting professedly on and under the treaty of Chunar,) "the Nabob Fyzoola Khân made such preparations, and such a disposition of his family and wealth, as evidently manifested either an intended or an expected rupture."

VI.—That on the 6th of May, the said Hastings did send his confidential agent and friend, Major Palmer, on a private commission to Lucknow; and that the said Palmer was charged with secret instructions relative to Fyzoola Khân, but of what import cannot be ascertained, the said Hastings in his public instructions having inserted only the name of Fyzoola Khân, as a mere reference (according to the explanation of the said Hastings) to what he had verbally communicated to the said Palmer; and that the said Hastings was thereby guilty of a criminal concealment.

VII.—That some time about the month of August, an engagement happened between a body of Fyzoola Khân's cavalry and a part of the vizier's army, in which the latter were beaten, and their guns taken; that the resident Middleton did represent the same but as a slight and accidental affray: that it was acknowledged the troops of the vizier were the aggressors; that it did appear to the board, and to the said Hastings himself, an affair of more considerable magnitude, and that they did make the concealment thereof an article of charge against the resident Middleton, though the said resident did in truth acquaint them with the same, but in a cursory manner.

VIII.—That immediately after the said "fray" at Daranagur, the vizier (who was "but a cipher in the hands" of the minister and resident, both of them directly appointed and supported by the said Hastings,) did make of Fyzoola Khân a new demand, equally contrary to the true intent and meaning of the treaty, as his former requisitions; which new demand was for the detachment in garrison at Daranagur to be cantoned as a stationary force at Lucknow, the capital of the vizier; whereas he (the vizier) had only a right to demand an occasional aid to join his army in the field, or in garrison, during a war. But the said new demand being evaded, or rather refused, agreeably to the fair construction of the treaty by the Nabob Fyzoola Khân, the matter was for the present dropped.

IX.—That in the letter, in which the resident Middleton did mention "what he calls the fray" aforesaid, the said Middleton did again apply for the resumption of the jaghire of Rampore; and that, the objections against the measure being now removed (by the separate peace with Scindia) he desired to know if the board "would give assurances of their support to the vizier, in case, which (says the resident) I think very probable, his (the vizier's) own strength should be found equal to the undertaking."

X.—That although the said Warren Hastings did make the foregoing application, a new charge against the resident Middleton, yet the said Hastings did only criminate the said Middleton for a proposal, tending "at such a crisis to increase the number of our enemies;" and did in no degree, either in his articles of charge, or in his accompanying minutes, express any disapprobation whatever of the principle; that in truth the whole proceedings of the said resident were the natural result of the treaty of Chunar: that the proceedings were from time to time communicated to the said Hastings. That as he no where charges any disobedience of orders on Mr. Middleton with respect to Fyzoola Khân, it may be justly inferred, that the said Hastings did not interfere to check the proceedings of the said Middleton on that subject; and that by such criminal neglect the said Hastings did make the guilt of the said Middleton, whatever it might be, his own.

PECUNIARY COMMUTATION OF THE STIPULATED AID.

I.—THAT on the charges, and for the misdemeanours above specified, together with divers other accusations, the governour-general, Warren Hastings, in September, 1782, did remove the aforesaid Middleton from his office of resident at Oude, and did appoint thereto John Bristow, Esquire, whom he had twice before, without cause, recalled from the

same; and that about the same time the said Hastings did believe the mind of the Nabob Fyzoola Khân to be so irritated in consequence of the above recited conduct of the late resident Middleton, and of his (the said Hastings's) own criminal neglect, that he, the said Hastings, found it necessary to write to Fyzoola Khân, assuring him "of the favourable disposition of the government toward him, while he shall not have forfeited it by any improper conduct." But that the said assurances of the governour-general did not tend, as soon after appeared, to raise much confidence in the nabob, over whom a public instrument of the same Hastings was still holding the terrors of a deprivation of his jaghire, and an exile "among his other faithless brethren across the Ganges."

II.—That on the subject of Fyzoola Khân, the said Hastings, in his instructions to the new resident, Bristow, did leave him to be guided by his own discretion; but (he adds) "be careful to prevent the vizier's affairs from being involved with new difficulties, while he has already so many to oppress him;" thereby plainly hinting at some more decisive measures, whenever the vizier should be less oppressed with difficulties.

III.—That the resident Bristow, after acquainting the governour-general with his intentions, did under the said instructions renew the aforesaid claim for a sum of money, but with much caution and circumspection, distinctly sounding Allif Khân, the vakeel (or envoy) of Fyzoola Khân, at the court of the vizier: that "Allif Khân wrote to his master on the subject, and in answer he was directed not to agree to the granting of any pecuniary aid."

IV.—That the resident Bristow did then openly depute Major Palmer aforesaid, with the concurrence of the vizier, and the approbation of the governour-general, to the Nabob Fyzoola Khân, at Rampore; and that the said Palmer was to "endeavour to convince the nabob, that *all doubts of his attachment to the vizier are ceased; and whatever claims may be made on him are founded upon the basis of his interest and advantage, and a plan of establishing his right to the possession of his jaghire.*"

That the sudden ceasing of the said doubts, without any inquiry of the slightest kind, doth warrant a strong presumption of the resident's conviction, that they never really existed, but were artfully feigned, as a pretence for some harsh interposition; and that the indecent mockery of establishing, as a matter of favour for a pecuniary consideration, rights, which were never impeached but by the treaty of Chunar (an instrument recorded by Warren Hastings himself to be founded on falsehood and injustice,) doth powerfully prove the true purpose and object of all the duplicity, deceit, and double dealing, with which that treaty was projected and executed.

V.—That the said Palmer was instructed by the resident Bristow, with the subsequent approbation of the governour-general, "to obtain from Fyzoola Khân an annual tribute;" to which the resident adds, "If *you can procure from him, over and above this, a peshcush (or fine)* of *at least five lacks*, it would be rendering an essential service to the vizier, and add *to the confidence his excellency would hereafter repose in the attachment of the Nabob Fyzoola Khân.*"

And that the said governour-general Hastings did give the following extraordinary ground of calculation as the basis of the said Palmer's negociation for the annual tribute aforesaid:

"*It was certainly understood* at the time the treaty was concluded, (of which this stipulation was a part,) that it applied *solely to cavalry*; as the nabob vizier, possessing the service of our forces, could not possibly require the infantry, and least of all such infantry as Fyzoola Khân could furnish; and *a single horseman included in the aid which Fyzoola Khân might furnish, would prove a literal compliance with the said stipulation.* The number therefore of horse implied by it ought at least to be ascertained; *we will suppose five thousand*, and allowing the exigency for their attendance to exist only in the proportion of *one year in five*, reduce the demand to one thousand for the computation of the subsidy, which at the rate *of fifty rupees* per man, will amount to fifty thousand per mensem. This may serve for the basis of this article in the negociation upon it."

VI.—That the said Warren Hastings doth then continue to instruct the said Palmer in the alternative of a refusal from Fyzoola Khân.

"If Fyzoola Khân shall refuse to treat for a subsidy, and claim the benefit of his original agreement in its literal expression, *he possesses a right, which we cannot dispute*, and it will in that case remain only to fix the pre-

cise number of horse which he shall furnish, which ought at least to exceed 2500.

VII.—That, in the above-recited instruction, the said Warren Hastings doth insinuate (for he doth not directly assert,)

1st. That we are entitled by treaty to 5000 troops; which he says were undoubtedly intended to be all cavalry.

2d. That the said Hastings doth then admit, that a single horseman, included in the aid furnished by Fyzoola Khân, would prove a literal compliance.

3d. That the said Hastings doth next resort again to the supposition of our right to the whole 5000 cavalry.

4th. That the said Hastings doth afterwards think, in the event of an explanation of the treaty, and a settlement of the proportion of cavalry, instead of a pecuniary commutation, it will be all we can demand, that the number should *at least exceed* 2500.

5th. That the said Hastings doth, in calculating the supposed time of their service, assume an arbitrary estimate of one year of war to four of peace; which (however moderate the calculation may appear on the average of the said Hastings's own government) doth involve a principle in a considerable degree repugnant to the system of perfect peace, inculcated in the standing orders of the company."

6th. That, in estimating the pay of the cavalry to be commuted, the said Hastings doth fix the pay of each man at 50 rupees a month; which on 5000 troops, all cavalry (as the said Hastings supposes the treaty of Lall-Dang to have meant) would amount to an expense of 30 lacks a year, or between 300,000*l.* and 400,000*l.* And this expense, strictly resulting (according to the calculations of the said Hastings) from the intention of Shuja ul Dowla's grant to Fyzoola Khân, was designed to be supported out of a jaghire, valued at fifteen lacks only, or something more than 150,000*l.* of yearly revenue, just half the amount of the expense to be incurred in consideration of the said jaghire.

And that a basis of negociation so inconsistent, so arbitrary, and so unjust, is contrary to that uprightness and integrity, which should mark the transactions of a great state, and is highly derogatory to the honour of this nation.

VIII.—That notwithstanding the seeming moderation and justice of the said Hastings in admitting the clear and undoubted right of Fyzoola Khân to insist on his treaty, the head of instruction immediately succeeding doth afford just reason for a violent presumption, that such apparent lenity was but policy, to give a colour to his conduct; he the said Hastings, in the very next paragraph, bringing forth a new engine of oppression, as follows:

"To demand the surrender of all the reiats (or peasants) of the nabob vizier's dominions, to whom Fyzoola has given protection and service, *or an annual tribute, in compensation for the loss sustained by the nabob vizier in his revenue, thus transferred to Fyzoola Khân.*

"You have stated the increase of his jaghire, occasioned by this act, at the moderate sum of fifteen lacks. *The tribute ought at least to be one-third of that amount.*

"We conceive that Fyzoola Khân himself may be disposed to yield to the preceding demand, on the additional condition of being allowed to hold his lands in Ultumgaw (or an inheritable tenure) instead of his present tenure by jagheer, (or a tenure for life.) This we think the vizier can have no objection to grant, and we recommend it: *but for this a fine or peshcush ought to be immediately paid in the customary proportion of the Jumma, estimated at thirty lacks.*"

IX.—That the resident Bristow (to whom the letter containing Major Palmer's instructions is addressed) no where attributes the increase of Fyzoola Khân's revenues to this protection of the fugitive reiats, subjects of the vizier: that the said Warren Hastings was, therefore, not warranted to make that a pretext of such a peremptory demand; that as an inducement to make Fyzoola Khân agree to the said demand, it is offered to settle his lands upon a tenure, which would secure them to his children; but that settlement is to bring with it a new demand of a fine of thirty lacks, or 300,000*l.* and upwards; that the principles of the said demand are violent and despotic, and the inducement to acquiescence deceitful and insidious; and that both the demand and the inducement are derogatory to the honour of this nation.

X.—That Major Palmer aforesaid proceeded under these instructions to Rampore, where his journey "*to extort a sum of money,*" was previously known from Allif Khân, vakeel of Fyzoola Khan at the vizier's court: and that, notwithstanding the assurances of the friendly disposition of government given by the said Hastings (as is herein

related) the Nabob Fyzoola Khân did express the most serious and desponding apprehensions, both by letter and through his vakeel, to the resident Bristow, who represents them to Major Palmer in the following manner:

"The Nabob Fyzoola Khân complains of the distresses he has this year suffered from the drought. The whole collections have, with great management, amounted to about twelve lacks of rupees, from which sum he has to support his troops, his family, and several relations and dependants of the late Rohilla chiefs. *He says, it clearly appears to be intended to deprive him of his country, as the high demand you have made of him is inadmissible.* Should he have assented to it, it would be impossible to perform the conditions, and then his reputation would be injured by a breach of agreement. *Allif Khân further represents that it is his master's intention, in case the demand should not be relinquished by you, first to proceed to Lucknow, where he proposes having an interview with the vizier and resident; if he should not be able to obtain his own terms for a future possession of his jaghire, he will set off for Calcutta in order to pray for justice from the honourable the governour-general.* He observes, it is the custom of the honourable company, when they deprive a chief of his country, to grant him some allowance. This he expects from Mr. Hastings's bounty; *but if he should be disappointed, he will certainly set off upon a pilgrimage to Mecca and Medina, and renounce the cares of the world.*"

"*He directs his vakeel to ascertain whether the English intend to deprive him of his country;* for if they do, he is ready to surrender it, upon receiving an order from the resident."

XI.—That after much negociation the Nabob Fyzoola Khân, "being fully sensible that an engagement to furnish military aid, *however clearly the conditions might be stated, must be a source of perpetual misunderstanding and inconvenience,*" did at length agree with Major Palmer to give fifteen lacks, or 150,000*l.* and upwards, by four instalments, that he might be exempted from all future claims of military service: that the said Palmer represents it to be his belief, "*that no person, not known to possess your,* (the said Hastings's) *confidence and support in the degree that I am supposed to do,* would have obtained nearly so good terms;" but from what motive "terms so good" were granted, and how the confidence and support of the said Hastings did truly operate on the mind of Fyzoola Khân, doth appear to be better explained by another passage in the same letter, where the said Palmer congratulates himself on the *satisfaction, which he gave to Fyzoola Khân* in the conduct of this negociation, as he spent a month in order to effect "by argument and persuasion, *what he could have obtained in an hour by threats and compulsions.*"

FULL VINDICATION OF FYZOOLA KHAN BY MAJOR PALMER AND MR. HASTINGS.

I.—THAT in the course of the said negociation for establishing the rights of the Nabob Fyzoola Khân, Major Palmer aforesaid did communicate to the resident Bristow, and through the said resident to the council-general of Bengal, the full and direct denial of the Nabob Fyzoola Khân to all and every of the charges made or pretended to be made against him, as follows:

Fyzoola Khân persists in denying the infringement on his part of any one article in the treaty, or the neglect of any obligation which it imposed upon him.

"He does not admit of the *improvements reported to be made* in his jaghire, and even asserts that the collections this year will fall short of the original jumma (or estimate) by reason of the long drought.

"He denies having exceeded the limited number of Rohillas in his service;

"And having refused the required aid of cavalry, made by Johnson, to act with General Goddard.

"He observes, respecting the charge of evading the vizier's requisition for the cavalry, lately stationed at Daranagur, to be stationed at Lucknow that he is not bound by treaty to maintain a stationary force for the service of the vizier, but to supply an aid of 2000 or 3000 troops in time of war.

"Lastly, he asserts, that so far from encouraging the ryots (or peasants) of the vizier to settle in his jaghire, it has been his constant practice to deliver them up to the aumil of Rohilcund, whenever he could discover them."

II.—That, in giving his opinions on the aforesaid denials of the Nabob Fyzoola Khân,

the said Palmer did not controvert any one of the constructions of the treaty advanced by the said nabob.

That although the said Palmer, "from general appearances as well as universal report, did not doubt, that the jumma of the jaghire is *greatly increased*," yet he, the said Palmer, did not intimate that it was increased in any degree near the amount reported, as it was drawn out in a regular estimate, transmitted to the said Palmer expressly for the purposes of his negociation; which was of course by him produced to the Nabob Fyzoola Khân, and to which specifically the denial of Fyzoola Khân must be understood to apply.

That the said Palmer did not hint any doubt of the deficiency affirmed by Fyzoola Khân in the collections for the current year: and,

That if any increase of jumma did truly exist, whatever it may have been, the said Palmer did acknowledge it "to have been solemnly relinquished (in a private agreement) by the vizier."

That although the said Palmer did suppose the number of Rohillas, (employed "in ordinary occupations,) in Rampore alone, to exceed that limited by the treaty for his (Fyzoola Khân's) service," yet the said Palmer did by no means imply, that the Nabob Fyzoola Khân *maintained in his service* a single man more than was allowed by the treaty; and by a particular and minute account of the troops of Fyzoola Khân, transmitted by the resident Bristow to the said Palmer, the number was stated but at 5840, probably including officers, who were not understood to be comprehended in the treaty.

That the said Palmer did further admit it "*to be not clearly expressed* in the treaty, whether the restriction included Rohillas of all descriptions; but at any rate he adds, "it does not appear that their number is formidable: or that he (Fyzoola Khân) could by *any means subsist such numbers as could cause any serious alarm to the vizier*; neither is there any appearance of their entertaining any views beyond the quiet possession of the advantages which they at present enjoy."

And that in a subsequent letter, in which the said Palmer thought it prudent "to vindicate himself from any possible insinuation that he meant to sacrifice the vizier's interest," he, the said Palmer, did positively attest the new claim on Fyzoola Khân for the protection of the vizier's ryots to be wholly without foundation; as the Nabob Fyzoola Khân "had proved to him (Palmer) by producing receipts of various dates, and for great numbers of these people surrendered upon requisition from the vizier's officers."

III.—That, over and above the aforesaid complete refutation of the different charges and pretexts, under which exactions had been practised, or attempted to be practised, on the Nabob Fyzoola Khân, the said Palmer did further condemn altogether the principle of calculation assumed in such exactions (even if they had been founded in justice) by the following explanation of the nature of the tenure, by which, under the treaty of Lall-Dang, the Nabob Fyzoola Khân held his possessions as a jaghiredar.

"There are no precedents in the ancient visage of the country for ascertaining the nuzzerana (customary present) or peschcush (regular fine) of grants of this nature: *they were bestowed by the prince as rewards or favours*; and the accustomary present in return was adapted to the dignity of the donor, rather than to the value of the gift; *to which it never, I believe, bore any kind of proportion.*"

IV.—That a sum of money ("which of course was to be received by the company") being now obtained, and the "*interests both of the company and the vizier*" being thus much "*better promoted*" by "*establishing the rights*" of Fyzoola Khân, than they could have been by "*depriving him of his independency*;" when every undue influence of secret and criminal purposes was removed from the mind of the governour-general, Warren Hastings, Esquire, he, the said Hastings, did also concur with his friend and agent, Major Palmer, in the vindication of the Nabob Fyzoola Khân, and in the most ample manner.

That the said Warren Hastings did now clearly and explicitly understand the clauses of the treaty, "that Fyzoola Khân should send *two* or *three* (and not *five*) thousand men, or *attend in person in case it was requisite.*"

That the said Warren Hastings did now confess, that the right of the vizier, under the treaty, was at best "but *a precarious and unserviceable right*; and that he thought fifteen lacks, or 150,000*l.* and upwards, an ample equivalent," (or, according to the expression of Major Palmer, an excellent bargain) as in truth it was, "for expunging an article of such a tenour, and so loosely worded." And finally, that the said Hastings did give the

following description of the general character, disposition, and circumstances, of the Nabob Fyzoola Khân :

"The rumours which had been spread of his hostile designs against the vizier, were totally groundless, and if he had been inclined, he had not the means, to make himself formidable; on the contrary, being in the decline of life, and possessing a very fertile and prosperous jaghire, it is more natural to suppose that Fyzoola Khân wishes to spend the remainder of his days in quietness, than that he is preparing to embark in active and offensive scenes, which must end in his own destruction."

V.—Yet that, notwitstanding this virtual and implied crimination of his whole conduct toward the Nabob Fyzoola Khân, and after all the aforesaid acts systematically prosecuted in open violation of a positive treaty against a prince, who had an hereditary right to more than he actually possessed, for whose protection the faith of the company and the nation was repeatedly pledged, and who had deserved and obtained the public thanks of the British government, when, in allusion to certain of the said acts, the court of directors had expressed to the said Hastings their wishes "to be considered rather as the guardians of the honour and property of the native powers, than as the instruments of oppression;" he, the said Hastings, in reply to the said directors, his masters, did conclude his official account of the final settlement with Fyzoola Khân, with the following indecent, because unjust, exultation :

"Such are the measures which we shall ever wish to observe towards our allies or dependants upon our frontiers."

*** *As the letter referred to in the VIIIth and XVIth Articles of Charge is not contained in any of the Appendixes to the Reports of the Select Committee, it has been thought necessary to annex it as an Appendix to these Charges.*

APPENDIX

TO THE VIIIth AND XVIth CHARGES.

Copy of a Letter from Warren Hastings, Esquire, to William Devaynes, Esquire, Chairman of the Court of Directors of the East-India Company, dated Cheltenham, 11th of July, 1785; and printed by order of the House of Commons.

To William Devaynes, Esquire, Chairman of the Honourable the Court of Directors.

SIR,—The honourable court of directors, in their general letter to Bengal, by the Surprise, dated the 16th March, 1784, were pleased to express their desire that I should inform them of the periods when each sum of the presents, mentioned in my address of the 22d May, 1782, was received, what were my motives for withholding the several receipts from the knowledge of the council, or of the court of directors, and what were my reasons for taking bonds for part of these sums, and for paying other sums into the treasury as deposits on my own account.

I have been kindly apprized that the information required as above is yet expected from me. I hope that the circumstances of my past situation, when considered, will plead my excuse for having thus long withheld it. The fact is, that I was not at the presidency when the Surprise arrived; and when I returned to it, my time and attention were so entirely engrossed, to the day of my final departure from it, by a variety of other more important occupations, of which, sir, I may safely appeal to your testimony, grounded on the large portion contributed by myself of the volumes which compose our consultations of that period, that the submission which my respect would have enjoined me to pay to the command imposed on me, was lost to my recollection, perhaps from the stronger impression, which the first and distant perusal of it had left on my mind, that it was rather intended as a reprehension for something which had given offence in my report of the original transaction, than as expressive of any want of a further elucidation of it.

I will now endeavour to reply to the different questions which have been stated to me,

in as explicit a manner as I am able. To such information as I can give the honourable court is fully entitled, and where that shall prove defective, I will point out the easy means by which it may be rendered more complete.

First, I believe I can affirm with certainty that the several sums mentioned in the account transmitted with my letter above mentioned, were received at or within a very few days of the dates which are prefixed to them in the account; but as this contains only the gross sums, and each of these was received in different payments, though at no great distance of time, I cannot therefore assign a greater degree of accuracy to the account. Perhaps the honourable court will judge this sufficient for any purpose to which their inquiry was directed; but if it should not be so, I will beg leave to refer, for a more minute information, and for the means of making any investigation, which they may think it proper to direct, respecting the particulars of this transaction, to Mr. Larkins, your accomptant-general, who was privy to every process of it, and possesses, as I believe, the original paper, which contained the only account that I ever kept of it. In this each receipt was, as I recollect, specifically inserted, with the name of the person by whom it was made; and I shall write to him to desire that he will furnish you with the paper itself, if it is still in being, and in his hands, or with whatever he can distinctly recollect concerning it.

For my motives for withholding the several receipts from the knowledge of the council, or of the court of directors, and for taking bonds for part of these sums, and paying others into the treasury as deposits on my own account, I have generally accounted in my letter to the honourable the court of directors of the 22d May, 1782; namely, that "I either chose to conceal the first receipts from public curiosity by receiving bonds for the amount, or possibly acted without any studied design which my memory, at that distance of time, could verify; and that I did not think it worth my care to observe the same means with the rest." It will not be expected that I should be able to give a more correct explanation of my intentions after a lapse of three years, having declared at the time that many particulars had escaped my remembrance; neither shall I attempt to add more than the clearer affirmation of the facts implied in that report of them, and such inferences as necessarily, or with a strong probability, follow them. I have said that the three first sums of the account were paid into the company's treasury without passing through my hands. The second of these was forced into notice by its destination and application to the expense of a detachment, which was formed and employed against Madajee Scindia, under the command of Lieutenant-Colonel Camac, as I particularly apprized the court of directors, in my letter of the 29th November, 1780. The other two were certainly not intended, when I received them, to be made public, though intended for public service, and actually applied to it. The exigencies of the government were at that time my own, and every pressure upon it rested with its full weight upon my mind. Wherever I could find allowable means of relieving those wants, I eagerly seized them; but neither could it occur to me as necessary to state on our proceedings every little aid which I could thus procure, nor do I know how I could have stated it, without appearing to court favour by an ostentation which I disdained, nor without the chance of exciting the jealousy of my colleagues by the constructive assertion of a separate and unparticipated merit, derived from the influence of my station, to which they might have laid an equal claim. I should have deemed it particularly dishonourable to receive for my own use money tendered by men of a certain class, from whom I had interdicted the receipt of presents to my inferiours, and and bound them by oath not to receive them. I was therefore more than ordinarily cautious to avoid the suspicion of it, which would scarcely have failed to light upon me, had I suffered the money to be brought directly to my own house, or to that of any person known to be in trust for me; for these reasons I caused it to be transported immediately to the treasury. There, you well know, sir, it could not be received without being passed to some credit, and this could only be done by entering it as a loan, or as a deposit; the first was the least liable to reflection, and therefore I had obviously recourse to it. Why the second sum was entered as a deposit, I am utterly ignorant; possibly it was done without any special direction from me; possibly because it was the simplest mode of entry, and therefore preferred, as the transaction itself did not require concealment, having been already avowed.

Although I am firmly persuaded that these were my sentiments on the occasion, yet I will not affirm that they were. Though I feel

their impression as the remains of a series of thoughts retained on my memory, I am not certain that they may not have been produced by subsequent reflection on the principal fact, combining with it the probable motives of it. Of this I am certain, that it was my design originally to have concealed the receipt of all the sums, except the second, even from the knowledge of the court of directors. They had answered my purpose of public utility, and I had almost totally dismissed them from my remembrance. But when fortune threw a sum in my way of a magnitude, which could not be concealed, and the peculiar delicacy of my situation at the time, in which I received it, made me more circumspect of appearances, I chose to apprize my employers of it, which I did hastily and generally; hastily perhaps to prevent the vigilance and activity of secret calumny; and generally, because I knew not the exact amount of the sum, of which I was in the receipt, but not in the full possession: I promised to acquaint them with the result as soon as I should be in possession of it, and in the performance of my promise I thought it consistent with it to add to the account all the former appropriations of the same kind; my good genius then suggesting to me, with a spirit of caution, which might have spared me the trouble of this apology, had I universally attended to it, that if I had suppressed them, and they were afterwards known, I might be asked, what were my motives for withholding part of these receipts from the knowledge of the court of directors, and informing them of the rest.

It being my wish to clear up every doubt upon this transaction, which either my own mind could suggest, or which may have been suggested by others, I beg leave to suppose another question and to state the terms of it in my reply, by informing you, that the endorsement on the bonds was made about the period of my leaving the presidency, in the middle of the year 1781, in order to guard against their becoming a claim on the company, as part of my estate, in the event of my death occurring in the course of the service, on which I was then entering.

This, sir, is the plain history of the transaction. I should be ashamed to request that you would communicate it to the honourable court of directors, whose time is too valuable for the intrusion of a subject so uninteresting, but that it is become a point of indispensable duty; I must therefore request the favour of you to lay it, at a convenient time, before them. In addressing it to you personally, I yield to my own feelings of the respect, which is due to them as a body, and to the assurances, which I derive from your experienced civilities, that you will kindly overlook the trouble imposed by it.

I have the honour to be, sir,
Your very humble and
Most obedient servant,
(Signed) WARREN HASTINGS.

Cheltenham. 11*th July*, 1785.

TRIAL OF WARREN HASTINGS, Esq.,

LATE GOVERNOR OF BENGAL.

INTRODUCTION.*

TO THE RIGHT HONOURABLE

THE LORD VISCOUNT MILTON,

ONE OF THE REPRESENTATIVES IN THE COMMONS HOUSE OF PARLIAMENT FOR THE COUNTY OF YORK.

MY DEAR LORD,

I AM persuaded, that your lordship will not be displeased to see your name inscribed, at the beginning of an introduction to the fourth volume of Mr. Burke's posthumous works. The hereditary interest, which you possess, in whatever regards the public labours of that great man and distinguished statesman, will form, I trust, but a small part of your claim to such a distinction. Your father, and your great-uncle the late Marquess of Rockingham, in addition to the happiness, which they enjoyed, of his personal intimacy and friendship, had also the gratification of being in a high degree instrumental in the direction of those labours to the service of their country. I well remember, that Mr. Burke manifested no ordinary sensation of joy at your birth; an event, which he considered to be intimately connected with the essential interests of the nation. The heir to a title conveying the right to a seat in the legislative councils of the nation, and to a landed property, among the first in value and amplitude; the future head of a family, whose alliances and connections spread its influence through a wide range of social and political intercourse, and gave it a sensible and permanent weight in all matters of state, could not be regarded by him with indifference. Nor will this appear extraordinary, when it is considered, that the principles of the party, of which he knew you would almost necessarily become a distinguished member, and probably an eminent support; principles founded upon the basis of political liberty, and calculated, in their practical application, to promote its security in this nation—had been more philosophically developed, and more accurately defined, more systematically arranged, and applied with more profound wisdom to their practical object, by him, than by any other person; principles too, not less warmly cherished in his heart, than firmly embraced by his understanding. Disinterested patriotism, he knew, you would imbibe from the lessons of your virtuous parents, and a whig patriot alone was to be expected from the house of Wentworth. When he was taken from us, you had not attained an age, that enabled you to profit, as your immediate predecessors had done, by his friendship in private, and co-operation in public life. But hereditary veneration for his character, and the studious perusal of his writings, have, in a great degree supplied that loss. Had he lived to know how firmly and zealously you are attached to the principles which he had invariably maintained, and how steadily and manfully you come forward, upon all occasions, to their support, he would have derived from that knowledge, in the present inauspicious state of public affairs, some consolation at least, perhaps some hope of better times; notwithstanding the triumphant career, which lies open to the enemies of whiggism, in consequence of divisions within itself, and the apathy of the people from without.

In the mind of Mr. Burke political principles were not objects of barren speculation. Wisdom in him was always practical. Whatever his understanding adopted as truth, made its way to his heart, and sunk deep into it; and his ardent and generous feelings seized with promptitude and eagerness every occasion of applying it to the use of mankind. How

* The reader will perceive that this introduction preceded the fourth volume of Mr. Burkes posthumous works. It is retained here in the same place it appears in the English edition.

large a portion of an active and laborious life was thus employed, will be seen in our future history of it. Where shall we find recorded exertions of active benevolence, at once so numerous, so varied, and so important, made by one man? Among these, the redress of wrongs and the protection of weakness from the oppression of power, were most conspicuous: And of this kind the Impeachment of Mr. Hastings was considered by Mr. Burke, as beyond all comparison the most interesting and momentous.

The volume, which is now inscribed to your lordship, relates to that proceeding; a proceeding, which that virtuous and enlightened representative held to be the most important of his parliamentary labours.

The assumption of arbitrary power, in whatever shape it appeared, whether under the veil of legitimacy, or skulking in the disguise of state necessity, or presenting the shameless front of usurpation; whether the prescriptive claim of ascendency, or the brief career of official authority, or the newly-acquired dominion of a mob,* was the sure object of his detestation and hostility. His endeavours to stifle it in its birth, or to obstruct its march, and impede its progress, or to redress its oppressions, will be found to have occupied, in various instances, as I have already said, no small portion of his life. The scale, upon which oppressions of this kind had been exercised in our East-Indian possessions, was of such a magnitude, that it required a mind like his to grapple with them. His ardent zeal, and unwearied perseverance, were not more than equal to the task. He well knew, that the impunity of Indian delinquency was demanded by interest too weighty and extensive, and was secured by influence and protection too powerful to be resisted. The event accordingly, did not correspond with his wishes: but the eclât of a triumph was neither necessary to his fame, nor the triumph itself to the satisfaction of his own mind. The real cause, which he advocated, did not depend upon the decision of the court of judicature, before which the impeachment was tried. From the moment it was voted by the House of Commons, the attainment of its main object, was placed out of the power of his opponents to wrest from him.—The existence of the enormities, with the commission of which the governour-general was charged, how much soever the managers might fail in the technical proof of his guilt, required only to be known; and Mr. Burke was firmly persuaded, that by the investigation of the affairs of that government, resulting from the trial, and by the public exposure of the crimes which had been perpetrated, he had not only discharged a sacred and imperative duty, but at the same time had interposed a powerful check to the commission in future of such enormities.

It was from this view of the subject, that he had, a short time before his last sickness, begun to prepare materials for a complete history of the impeachment. His subsequent inability to proceed in it, was, I know, most sensibly felt by him: and it was among the last requests, he made me, that I would collect and arrange those materials, and publish so much of them, as I might judge fit for publication.

With this desire of my most dear and honoured friend, I am endeavouring to comply. The cultivators of literature will for ever lament the want of his finishing hand. I trust, however, that the substance of the whole of the proceedings will be found in these volumes; and that the philosopher and the statesman will not be insensible of their value. This volume contains the speeches, which he made at the close of the impeachment, and which were continued for nine days.

In a subsequent volume, an essay will be made towards a history of his life; comprizing such part of his correspondence, and other fugitive compositions, as may be judged fit for public perusal. This volume, the termination of my labours, and of our joint trust in editing the posthumous works of Mr. Burke, I purpose dedicating to the earl, your venerable father. But as it may not be the divine will, that I should live to accomplish my intention, you will not, I hope, my dear, lord, refuse permission to my availing myself of this present opportunity of telling the world, how greatly I love him, and how highly I honour him.

Soon after my first acquaintance with him, he succeeded to the splendid possessions of his uncle, the Marquess of Rockingham, my revered master and patron; and, together with them, perhaps I may be permitted to say, to the guardianship of the whig cause in England and Ireland. From that time his political conduct is well known to his country; for covertly or in concealment, I may confidently assert, he has done nothing. To his country, then, I may safely leave the judg-

* This is not a fanciful enumeration of possible cases. The reader will find in these volumes, examples of Mr. Burke's exertions, referable to each particular case.—EDIT.

ment of that conduct. His political knowledge, and his ability for the administration of public affairs, are known to those, who have either sat in council, or have held correspondence with him upon political subjects. His official services, indeed, during the late long reign, will not appear frequent in the historic page, nor his name prominently conspicuous in the annals of party; but in the silent operation of those causes, which have hitherto transmitted to us the constitution, if not unimpaired, perhaps without essential deterioration, through the vicissitudes of that eventful period, and which have rescued it from frequent and imminent dangers, the politician, who looks below the surface of things, will discover abundant proofs of his influence. Ever keeping steadily in his view the essential equipoises of our constitution, he conceived it to be his paramount duty, however painful the performance of it might be, to endeavour to maintain that balance between its constituent parts, which is necessary to the very existence of the constitution itself.

If, at one time, he abdicated, as it were, the high rank, which he held as a leader of the old whig party, by concurring* in such a formation of a new party, as to the jealous eye of the public, appeared tinged with a factious pursuit of power, and which excited suspicions of a dereliction of principles; it was, because he well knew that no such dereliction had taken place, and that there were no other means of combating with effect, that favourite system, which from the beginning of the late reign was directed in all its operations to the very extinction of whiggism.

If in an alarming exigency, when all constituted authority was threatened with subversion, he submitted† to the painful necessity of acting in separation from men, for whom he entertained the highest esteem, and with whom he had lived in habits of the most intimate friendship, and in concert with those, of whose political conduct he had before generally disapproved, it was for the purpose of discouraging the projects of innovation, which had been avowedly espoused by those who were then called the new whigs: it was for the purpose of preventing, by strengthening the legitimate operations of government, those inroads upon the constitution, to which the executive administration, when weakly formed, is often driven, in popular disturbances, to have recourse: and particularly it was with a well grounded expectation of procuring thereby the accomplishment of a great act of national justice, by the restoration of our Roman Catholic fellow subjects to their political rights. This support of the executive government required no compromise of public principles; on the contrary, the additional strength acquired by the administration might both have disposed and enabled it to effectuate measures of salutary reform, of prudent retrenchments of expense, and of necessary œconomy. On the part of Lord Fitzwilliam, this separation was marked with a moderation, which disarmed the animosity of the friends he had quitted, and left open the avenues to re-union with them, whilst at the same time it indicated the terms and extent of the new alliance, and was a pledge to the people, that the security of their rights, and of the constitution, was with him the sole object of that alliance.

Afterwards, when the independence of Europe was endangered by an overwhelming force, which nothing but the resources of this country appeared able to resist, he united his endeavours with those of statesmen of the highest character and reputation, to call forth those resources in the support of a war, which, whatever might have been his opinion of its policy at its commencement, he then conceived to be a measure of unavoidable necessity.

Lastly, when, in the discharge of these duties to his country, he was exposed to the effects of political intrigues, he bore the consequences* with that dignity, which naturally belongs to conscious merit, when deprived of any means of being useful.

Whilst I appeal with confidence to the people, for their judgment upon his public conduct, to those, who are most intimately acquainted with his private life, I may with equal confidence appeal, and ask, By what private virtue is it not eminently distinguished? Is this adulation? His advanced age, and mine, as they remove from me almost all temptation to be a flatterer, may well exempt me from such an imputation. May you, my dear lord, ever escape its poisonous arts.

* The coalition with Lord North in 1783.

† The coalition with Mr. Pitt in 1794, and the formation of Lord Grenville's administration in 1806.

* The dismission of the coalition ministry in 1784, and the subsequent discomfiture of the whig candidates at the general election in the same year; his resignation of the lord lieutenancy of Ireland in 1795; the dismission of the Grenville administration in 1807; and Lord Fitzwilliam's removal from the lord lieutenancy of Yorkshire in 1819.

May your labours in the service of your country procure for you, together with its praise, its confidence; and may that confidence, whilst it is your reward, become in your hands, one of the means of promoting and securing its most valuable interests and general prosperity. With these and every other good wish, and with the sincerest regard, I remain,

My dear lord,
Your most obedient humble servant,
W. Rochester.

P. S.—Some apology seems necessary for the insertion of so much matter, extraneous to the immediate design of this introduction. I have no other to offer, but the natural garrulity, one of the many infirmities of old age.—If age cannot screen me from the severity of criticism, I must demand from the public the indulgence, which I may require, for the venial gratification of private and personal feelings, as no unreasonable compensation for the labour and pains bestowed in preparing these posthumous works for its perusal.

TRIAL

OF WARREN HASTINGS, ESQUIRE.

THIRD DAY, 15TH FEBRUARY, 1788.

(Mr. Burke.)

My Lords,—The gentlemen who have it in command to support the impeachment against Mr. Hastings, have directed me to open the cause with a general view of the grounds, upon which the Commons have proceeded in their charge against him. They have directed me to accompany this with another general view of the extent, the magnitude, the nature, the tendency, and the effect of the crimes, which they allege to have been by him committed. They have also directed me to give an explanation (with their aid I may be enabled to give it) of such circumstances, preceding the crimes charged on Mr. Hastings, or concomitant with them, as may tend to elucidate whatever may be found obscure in the articles as they stand. To these they wished me to add a few illustrative remarks on the laws, customs, opinions, and manners of the people concerned, and who are the objects of the crimes we charge on Mr. Hastings.

The several articles, as they appear before you, will be opened by other gentlemen with more particularity, with more distinctness, and, without doubt, with infinitely more ability, when they come to apply the evidence, which naturally belongs to each article of this accusation. This, my lords, is the plan, which we mean to pursue on the great charge, which is now to abide your judgment.

My lords, I must look upon it as an auspicious circumstance to this cause, in which the honour of the kingdom and the fate of many nations are involved, that, from the first commencement of our parliamentary process to this the hour of solemn trial, not the smallest difference of opinion has arisen between the two houses.

My lords, there are persons, who, looking rather upon what was to be found in our records and histories, than what was to be expected from the public justice, had formed hopes consolatory to themselves and dishonourable to us. They flattered themselves, that the corruptions of India would escape amidst the dissensions of parliament. They are disappointed. They will be disappointed in all the rest of their expectations, which they have formed upon every thing, except the merits of their cause. The Commons will not have the melancholy unsocial glory of having acted a solitary part in a noble, but imperfect, work. What the greatest inquest of the nation has begun, its highest tribunal will accomplish. At length justice will be done to India. It is true, that your lordships will have your full share in this great achievement; but the Commons have always considered, that whatever honour is divided with you is doubled on themselves.

My lords, I must confess, that amidst these encouraging prospects the Commons do not approach your bar without awe and anxiety. The magnitude of the interests, which we have in charge, will reconcile some degree of solicitude for the event with the undoubting confidence, with which we repose ourselves upon your lordships' justice. For we are men, my lords; and men are so made, that it is not only the greatness of danger, but the value of the adventure, which measures the degree of our concern in every undertaking. I solemnly assure your lordships, that no standard is sufficient to estimate the value, which the Commons set upon the event of the cause they now bring before you. My lords, the business of this day is not the business of this man—it is not solely, whether the prisoner at the bar be found innocent, or guilty; but whether

millions of mankind shall be made miserable, or happy.

Your lordships will see in the progress of this cause, that there is not only a long connected, systematic series of misdemeanours, but an equally connected system of maxims and principles, invented to justify them. Upon both of these you must judge. According to the judgment, that you shall give upon the past transactions in India, inseparably connected as they are with the principles, which support them, the whole character of your future government in that distant empire is to be unalterably decided. It will take its perpetual tenour, it will receive its final impression, from the stamp of this very hour.

It is not only the interest of India, now the most considerable part of the British empire, which is concerned, but the credit and honour of the British nation itself will be decided by this decision. We are to decide by this judgment, whether the crimes of individuals are to be turned into public guilt and national ignominy; or whether this nation will convert the very offences, which have thrown a transient shade upon its government, into something, that will reflect a permanent lustre upon the honour, justice, and humanity of this kingdom.

My lords, there is another consideration, which augments the solicitude of the Commons, equal to those other two great interests I have stated, those of our empire and our national character; something, that, if possible, comes more home to the hearts and feelings of every Englishman: I mean, the interests of our constitution itself, which is deeply involved in the event of this cause. The future use, and the whole effect, if not the very existence, of the process of an impeachment of high crimes and misdemeanours before the peers of this kingdom, upon the charge of the Commons, will very much be decided by your judgments in this cause. This tribunal will be found (I hope it will always be found) too great for petty causes: if it should at the same time be found incompetent to one of the greatest; that is, if little offences, from their minuteness, escape you, and the greatest, from their magnitude, oppress you; it is impossible, that this form of trial should not, in the end, vanish out of the constitution. For me must not deceive ourselves: whatever does not stand with credit cannot stand long. And if the constitution should be deprived, I do not mean in form, but virtually, of this resource, it is virtually deprived of every thing else, that is valuable in it. For this process is the cement, which binds the whole together; this is the individuating principle, that makes England what England is. In this court it is, that no subject, in no part of the empire, can fail of competent and proportionable justice: here it is, that we provide for that, which is the substantial excellence of our constitution; I mean, the great circulation of responsibility, by which (excepting the supreme power) no man, in no circumstance, can escape the account, which he owes to the laws of his country. It is by this process, that magistracy, which tries and controuls all other things, is itself tried and controulled. Other constitutions are satisfied with making good subjects; this is a security for good governours. It is by this tribunal, that statesmen, who abuse their power, are accused by statesmen, and tried by statesmen, not upon the niceties of a narrow jurisprudence, but upon the enlarged and solid principles of state morality. It is here, that those, who by the abuse of power have violated the spirit of law, can never hope for protection from any of its forms:—it is here, that those, who have refused to conform themselves to its perfections, can never hope to escape through any of its defects. It ought, therefore, my lords, to become our common care to guard this your precious deposit, rare in its use, but powerful in its effect, with a religious vigilance, and never to suffer it to be either discredited or antiquated. For this great end your lordships are invested with great and plenary powers: but you do not suspend, you do not supersede, you do not annihilate any subordinate jurisdiction; on the contrary, you are auxiliary and supplemental to them all.

Whether it is owing to the felicity of our times, less fertile in great offences, than those, which have gone before us; or whether it is from a sluggish apathy, which has dulled and enervated the public justice, I am not called upon to determine: but, whatever may be the cause, it is now sixty-three years since any impeachment, grounded upon abuse of authority and misdemeanour in office, has come before this tribunal. The last is that of Lord Macclesfield, which happened in the year 1725. So that the oldest process known to the constitution of this country has, upon its revival, some appearance of novelty. At this time, when all Europe is in a state of, perhaps, contagious fermentation; when antiquity has lost all its reverence and all its effect on the minds of men, at the same time that novelty is still attended with the suspicions, that always will be attached to whatever is new; we have been anxiously careful in a business, which seems to combine the objections both to

what is antiquated and what is novel, so to conduct ourselves, that nothing in the revival of this great parliamentary process shall afford a pretext for its future disuse.

My lords, strongly impressed as they are with these sentiments, the Commons have conducted themselves with singular care and caution. Without losing the spirit and zeal of a public prosecution, they have comported themselves with such moderation, temper, and decorum, as would not have ill become the final judgment, if with them rested the final judgment, of this great cause.

With very few intermissions, the affairs of India have constantly engaged the attention of the Commons for more than fourteen years. We may safely affirm, we have tried every mode of legislative provision, before we had recourse to any thing of penal process. It was in the year 1774 we framed an act of parliament for remedy to the then existing disorders in India, such as the then information before us enabled us to enact. Finding, that the act of parliament did not answer all the ends that were expected from it, we had, in the year 1782, recourse to a body of monitory resolutions. Neither had we the expected fruit from them. When, therefore, we found, that our inquiries and our reports, our laws and our admonitions, were alike despised; that enormities increased in proportion as they were forbidden, detected, and exposed; when we found, that guilt stalked with an erect and upright front, and that legal authority seemed to skulk and hide its head like outlawed guilt; when we found, that some of those very persons, who were appointed by parliament to assert the authority of the laws of this kingdom, were the most forward, the most bold, and the most active, in the conspiracy for their destruction; then it was time for the justice of the nation to recollect itself. To have forborne longer would not have been patience, but collusion; it would have been participation with guilt; it would have been to make ourselves accomplices with the criminal.

We found it was impossible to evade painful duty, without betraying a sacred trust. Having, therefore, resolved upon the last and only resource, a penal prosecution, it was our next business to act in a manner worthy of our long deliberation. In all points we proceeded with selection. We have chosen (we trust, it will so appear to your lordships) such a crime, and such a criminal, and such a body of evidence, and such a mode of process, as would have recommended this course of justice to posterity, even if it had not been supported by any example in the practice of our forefathers.

First, to speak of the process: we are to inform your lordships, that, besides that long previous deliberation of fourteen years, we examined, as a preliminary to this proceeding, every circumstance, which could prove favourable to parties apparently delinquent, before we finally resolved to prosecute. There was no precedent to be found, in the journals, favourable to persons in Mr. Hastings's circumstances, that was not applied to. Many measures utterly unknown to former parliamentary proceedings, and which, indeed, seemed in some degree to enfeeble them, but which were all to the advantage of those, that were to be prosecuted, were adopted, for the first time, upon this occasion.—In an early stage of the proceeding, the criminal desired to be heard. He was heard; and he produced before the bar of the House that insolent and unbecoming paper, which lies upon our table. It was deliberately given in by his own hand, and signed with his own name. The Commons, however, passed by every thing offensive in that paper with a magnanimity, that became them. They considered nothing in it, but the facts, that the defendant alleged, and the principles he maintained; and after a deliberation, not short of judicial, we proceeded with confidence to your bar.

So far as to the process; which, though I mentioned last in the line and order, in which I stated the objects of our selection, I thought it best to dispatch first.

As to the crime, which we chose, we first considered well what it was in its nature, under all the circumstances, which attended it. We weighed it with all its extenuations, and with all its aggravations. On that review we are warranted to assert, that the crimes, with which we charge the prisoner at the bar, are substantial crimes; that they are no errours or mistakes, such as wise and good men might possibly fall into; which may even produce very pernicious effects, without being in fact great offences. The Commons are too liberal, not to allow for the difficulties of a great and arduous public situation. They know too well the domineering necessities, which frequently occur in all great affairs. They know the exigency of a pressing occasion, which, in its precipitate career, bears every thing down before it, which does not give time to the mind to recollect its faculties, to reinforce its reason, and to have recourse to fixed principles, but, by compelling an instant and tumultuous decision, too often obliges men to decide in a

manner, that calm judgment would certainly have rejected. We know, as we are to be served by men, that the persons, who serve us, must be tried as men, and with a very large allowance indeed, to human infirmity and human errour. This, my lords, we knew, and we weighed before we came before you. But the crimes, which we charge in these articles, are not lapses, defects, errours, of common human frailty, which, as we know and feel, we can allow for. We charge this offender with no crimes, that have not arisen from passions, which it is criminal to harbour; with no offences, that have not their root in avarice, rapacity, pride, insolence, ferocity, treachery, cruelty, malignity of temper; in short, in nothing, that does not argue a total extinction of all moral principle; that does not manifest an inveterate blackness of heart, died in grain with malice, vitiated, corrupted, gangrened to the very core. If we do not plant his crimes in those vices, which the breast of man is made to abhor, and the spirit of all laws, human and divine, to interdict, we desire no longer to be heard upon this occasion. Let every thing, that can be pleaded on the ground of surprise or errour, upon those grounds be pleaded with success: we give up the whole of those predicaments. We urge no crimes, that were not crimes of forethought. We charge him with nothing, that he did not commit upon deliberation; that he did not commit against advice, supplication, and remonstrance; that he did not commit against the direct command of lawful authority; that he did not commit after reproof and reprimand, the reproof and reprimand of those, who are authorized by the laws to reprove and reprimand him. The crimes of Mr. Hastings are crimes, not only in themselves, but aggravated by being crimes of contumacy. They were crimes, not against forms, but against those eternal laws of justice, which are our rule and our birthright. His offences are not, in formal, technical language, but in reality, in substance and effect, *high* crimes and high misdemeanours.

So far as to the crimes. As to the criminal, we have chosen him on the same principle, on which we selected the crimes. We have not chosen to bring before you a poor, puny, trembling delinquent, misled, perhaps by those, who ought to have taught him better, but who have afterwards oppressed him by their power, as they had first corrupted him by their example. Instances there have been many, wherein the punishment of minor offences, in inferiour persons, has been made the means of screening crimes of an high order, and in men of high description. Our course is different. We have not brought before you an obscure offender, who, when his insignificance and weakness are weighed against the power of the prosecution, gives even to public justice something of the appearance of oppression; no, my lords, we have brought before you the first man of India in rank, authority, and station. We have brought before you the chief of the tribe, the head of the whole body of eastern offenders; a captain-general of iniquity, under whom all the fraud, all the peculation, all the tyranny, in India, are embodied, disciplined, arrayed, and paid. This is the person, my lords, that we bring before you. We have brought before you such a person, that, if you strike at him with the firm and decided arm of justice, you will not have need of a great many more examples. You strike at the whole corps, if you strike at the head.

So far as to the crime: so far as to the criminal. Now, my lords, I shall say a few words relative to the evidence, which we have brought to support such a charge, and which ought to be equal in weight to the charge itself. It is chiefly evidence of record, officially signed by the criminal himself in many instances. We have brought before you his own letters, authenticated by his own hand. On these we chiefly rely. But we shall likewise bring before you living witnesses, competent to speak to the points, to which they are brought.

When you consider the late enormous power of the prisoner; when you consider his criminal, indefatigable assiduity in the destruction of all recorded evidence; when you consider the influence he has over almost all living testimony; when you consider the distance of the scene of action; I believe your lordships, and I believe the world, will be astonished, that so much, so clear, so solid, and so conclusive evidence of all kinds has been obtained against him. I have no doubt, that in nine instances in ten the evidence is such as would satisfy the narrow precision supposed to prevail, and to a degree rightly to prevail, in all subordinate power and delegated jurisdiction. But your lordships will maintain, what we assert and claim as the right of the subjects of Great Britain—that you are not bound by any rules of evidence, or any other rules whatever, except those of natural, immutable, and substantial justice.

God forbid the Commons should desire, that any thing should be received as proof from them, which is not by nature adapted to prove the thing in question. If they should make

such a request, they would aim at overturning the very principles of that justice, to which they resort. They would give the nation an evil example, that would rebound back on themselves, and bring destruction upon their own heads, and on those of all their posterity.

On the other hand, I have too much confidence in the learning, with which you will be advised, and the liberality and nobleness of the sentiments, with which you are born, to suspect, that you would, by any abuse of the forms, and a technical course of proceeding, deny justice to so great a part of the world, that claims it at your hands. Your lordships always had an ample power, and almost unlimited jurisdiction; you have now a boundless object. It is not from this district, or from that parish, not from this city, or the other province, that relief is now applied for: exiled and undone princes, extensive tribes, suffering nations, infinite descriptions of men, different in language, in manners, and in rites —men, separated by every barrier of nature from you, by the providence of God are blended in one common cause, and are now become suppliants at your bar. For the honour of this nation, in vindication of this mysterious providence, let it be known, that no rule formed upon municipal maxims (if any such rule exists) will prevent the course of that imperial justice, which you owe to the people, that call to you from all parts of a great disjointed world. For, situated as this kingdom is, an object, thank God, of envy to the rest of the nations; its conduct in that high and elevated situation will undoubtly be scrutinized with a severity as great as its power is invidious.

It is well known, that enormous wealth has poured into this country from India through a thousand channels, public and concealed; and it is no particular derogation from our honour to suppose a possibility of being corrupted by that, by which other empires have been corrupted, and assemblies, almost as respectable and venerable as your lordships, have been directly or indirectly vitiated. Forty millions of money, at least, have within our memory been brought from India into England. In this case the most sacred judicature ought to look to its reputation. Without offence we may venture to suggest, that the best way to secure reputation is, not by a proud defiance of public opinion, but by guiding our actions in such a manner, as that public opinion may in the end be securely defied, by having been previously respected and dreaded. No direct false judgment is apprehended from the tribunals of this country. But it is feared, that partiality may lurk and nestle in the abuse of our forms of proceeding. It is necessary, therefore, that nothing in that proceeding should appear to mark the slightest trace, should betray the faintest odour, of chicane. God forbid, that, when you try the most serious of all causes, that when you try the cause of Asia in the presence of Europe, there should be the least suspicion, that a narrow partiality, utterly destructive of justice, should so guide us, that a British subject in power should appear in substance to possess rights, which are denied to the humble allies, to the attached dependants of this kingdom, who by their distance have a double demand upon your protection, and who, by an implicit (I hope not a weak and useless) trust in you, have stripped themselves of every other resource under heaven.

I do not say this from any fear, doubt, or hesitation, concerning what your lordships will finally do, none in the world; but I cannot shut my ears to the rumours, which you all know to be disseminated abroad. The abusers of power may have a chance to cover themselves by those fences and intrenchments, which were made to secure the liberties of the people against men of that very description. But God forbid it should be bruited from Pekin to Paris, that the laws of England are for the rich and the powerful; but to the poor, the miserable, and defenceless, they afford no resource at all. God forbid it should be said, no nation is equal to the English in *substantial* violence and in *formal* justice—that in this kingdom we feel ourselves competent to confer the most extravagant and inordinate powers upon public ministers, but that we are deficient, poor, helpless, lame, and impotent in the means of calling them to account for their use of them. An opinion has been insidiously circulated through this kingdom, and through foreign nations too, that, in order to cover our participation in guilt, and our common interest in the plunder of the East, we have invented a set of scholastic distinctions, abhorrent to the common sense, and unpropitious to the common necessities, of mankind; by which we are to deny ourselves the knowledge of what the rest of the world knows, and what so great a part of the world both knows and feels. I do not deprecate any appearance, which may give countenance to this aspersion, from suspicion, that any corrupt motive can influence this court; I deprecate it from knowing, that hitherto we have moved within the narrow circle of municipal justice. I am afraid, that, from the habits acquired by moving with-

in a circumscribed sphere, we may be induced rather to endeavour at forcing nature into that municipal circle, than to enlarge the circle of national justice to the necessities of the empire we have obtained.

This is the only thing, which does create any doubt or difficulty in the minds of sober people. But there are those, who will not judge so equitably. Where two motives, neither of them perfectly justifiable, may be assigned, the worst has the chance of being preferred. If, from any appearance of chicane in the court, justice should fail, all men will say, better there were no tribunals at all. In my humble opinion, it would be better a thousand times to give all complainants the short answer the Dey of Algiers gave a British ambassadour, representing certain grievances suffered by the British merchants,—" My friend," (as the story is related by Dr. Shawe) "do not you know, that my subjects are a band of robbers, and that I am their captain?"—better it would be a thousand times, and a thousand thousand times more manly, than an hypocritical process, which, under a pretended reverence to punctilious ceremonies and observances of law, abandons mankind, without help and resource, to all the desolating consequences of arbitrary power. The conduct and event of this cause will put an end to such doubts, wherever they may be entertained. Your lordships will exercise the great plenary powers, with which you are invested, in a manner, that will do honour to the protecting justice of this kingdom, that will completely avenge the great people, who are subjected to it. You will not suffer your proceedings to be squared by any rules, but by their necessities, and by that law of a common nature, which cements them to us, and us to them. The reports to the contrary have been spread abroad with uncommon industry; but they will be speedily refuted by the humanity, simplicity, dignity, and nobleness of your lordships' justice.

Having said all, that I am instructed to say, concerning the process, which the House of Commons has used, concerning the crimes, which they have chosen, concerning the criminal, upon whom they attach the crimes, and concerning the evidence, which they mean to produce; I am now to proceed to open that part of the business, which falls to my share. It is rather an explanation of the circumstances, than an enforcement of the crimes.

Your lordships of course will be apprized, that this cause, is not what occurs every day in the ordinary round of municipal affairs; that it has a relation to many things, that it touches many points in many places, which are wholly removed from the ordinary beaten orbit of our English affairs. In other affairs, every allusion immediately meets its point of reference; nothing can be started, that does not immediately awaken to your attention something in your own laws and usages, which you meet with every day in the ordinary transactions of life. But here you are caught, as it were, into another world; you are to have the way pioneered before you. As the subject is new, it must be explained; as it is intricate as well as new, that explanation can be only comparatively short: and therefore, knowing your lordships to be possessed, along with all other judicial virtues, of the first and foundation of them all, judicial patience, I hope, that you will not grudge a few hours to the explanation of that, which has cost the Commons fourteen years assiduous application to acquire—that your lordships will not disdain to grant a few hours to what has cost the people of India upwards of thirty years of that innate, inveterate, hereditary patience to endure.

My lords, the powers, which Mr. Hastings is charged with having abused, are the powers delegated to him by the East-India Company. The East-India Company itself acts under two very dissimilar sorts of powers, derived from two sources very remote from each other. The first source of its power is under charters, which the Crown of Great Britain was authorized by act of parliament to grant; the other is from several charters derived from the emperour of the Moguls, the person, in whose dominions they were chiefly conversant:—particularly that great charter, by which, in the year 1766, they acquired the high stewardship of the kingdoms of Bengal, Bahar, and Orissa. Under those two bodies of charters the East-India Company, and all their servants, are authorized to act.

As to those of the first description, it is from the British charters, that they derive the capacity, by which they are considered as a public body, or at all capable of any public function. It is from thence they acquire the capacity to take from any power whatsoever any other charter, to acquire any other offices, or to hold any other possessions. This, being the root and origin of their power, renders them responsible to the party, from whom all their immediate and consequential powers are derived. As they have emanated from the supreme power of this kingdom, the whole body and the whole train of their servants, the corporate body as a corporate body, individuals as individuals, are responsible to the high jus-

tice of this kingdom. In delegating great power to the East-India Company, this kingdom has not released its sovereignty; on the contrary, the responsibility of the company is increased by the greatness and sacredness of the powers, that have been intrusted to it. Attempts have been made abroad to circulate a notion, that the acts of the East-India Company, and their servants, are not cognizable here. I hope on this occasion your lordships will shew, that this nation never did give a power, without annexing to it a proportionable degree of responsibility.

As to their other powers, the company derives them from the Mogul empire by various charters from that crown, and from the great magistrates of that crown, and particularly by the Mogul charter of 1765, by which they obtain the Duanni, that is, the office of Lord High Steward of the kingdoms of Bengal, Bahar, and Orissa. By that charter they bound themselves (and bound inclusively all their servants) to perform all the duties belonging to that new office, and to be held by all the ties belonging to that new relation. If the Mogul empire had existed in its vigour, they would have been bound under that responsibility, to observe the laws, rights, usages, and customs of the natives; and to pursue their benefit in all things. For this duty was inherent in the nature, institution, and purpose of the office, which they received. If the power of the sovereign, from whom they derived these powers, should by any revolution in human affairs be annihilated or suspended, their duty to the people below them, which was created under the Mogul charter, is not annihilated, is not even suspended; and for their responsibility in the performance of that duty, they are thrown back upon that country (thank God, not annihilated) from whence their original power, and all subsequent derivative powers, have flowed. When the company acquired that high office in India, an English corporation became an integral part of the Mogul empire. When Great Britain virtually assented to that grant of office, and afterwards took advantage of it, Great Britain guarantied the performance of all its duties. Great Britain entered into a virtual act of union with that country; by which we bound ourselves as securities to preserve the people in all the rights, laws, and liberties, which their natural original sovereign was bound to support, if he had been in condition to support them. By the disposition of events the two duties, flowing from two different sources, are now united in one. The people of India therefore come, in the name of the Commons of Great Britain, but in their own right, to the bar of this House, before the supreme royal justice of this kingdom, from whence originally all the powers, under which they have suffered, were derived.

It may be a little necessary, when we are stating the powers the company have derived from their charter, and which we state Mr. Hastings to have abused, to state in as short and as comprehensive words as I can (for the matter is large indeed) what the constitution of that company is; I mean chiefly, what it is in reference to its Indian service, the great theatre of the abuse. Your lordships will naturally conceive, that it is not to inform you, but to revive circumstances in your memory, that I enter into this detail.

You will therefore recollect, that the East-India Company had its origin about the latter end of the reign of Elizabeth, a period of projects, when all sorts of commercial adventures, companies, and monopolies, were in fashion. At that time the company was constituted, with extensive powers for increasing the commerce and the honour of this country; because increasing its commerce, without increasing its honour and reputation, would have been thought at that time, and will be thought now, a bad bargain for the country. The powers of the company were, under that charter, merely commercial. By degrees, as the theatre of operation was distant; as its intercourse was with many great, some barbarous, and all of them armed nations; nations, in which not only the sovereign but the subjects were armed; it was found necessary to enlarge their powers. The first power they obtained was a power of naval discipline in their ships; a power, which has been since dropped; the next was a power of law martial; the next was a power of civil, and, to a degree, of criminal jurisdiction, within their own factories, upon their own people, and their own servants; the next was, and here was a stride indeed, the power of peace and war. Those high and almost incommunicable prerogatives of sovereignty, which were hardly ever known before to be parted with to any subjects, and which, in several states, were not wholly entrusted to the prince or head of the commonwealth himself, were given to the East-India Company. That company acquired these powers about the end of the reign of Charles the Second; and they were afterwards more fully, as well as more legally, given by parliament after the revolution. From this time, the East-India Company was no longer merely a mercantile company, formed for the

extension of the British commerce; it more nearly resembled a delegation of the whole power and sovereignty of this kingdom, sent into the East. From that time the company ought to be considered as a subordinate sovereign power; that is, sovereign with regard to the objects, which it touched; subordinate with regard to the power, from whence its great trust was derived. Under these successive arrangements things took a course very different from their usual order. A new disposition took place, not dreamt of in the theories of speculative politicians; and of which few examples, in the least resembling it, have been seen in the modern world, none at all in the antient. In other instances a political body, that acts as a commonwealth, was first settled, and trade followed as a consequence of the protection obtained by political power; but here the course of affairs was reversed. The constitution of the company began in commerce, and ended in empire. Indeed, wherever the sovereign powers of peace and war are given, there wants but time and circumstance to make these powers supersede every other. The affairs of commerce will fall, at last, into their proper rank and situation. However primary in their original intention, they will become secondary. The possession, therefore, and the power of assertion, of these great authorities, coinciding with the improved state of Europe, with the improved state of arts in Europe, with the improved state of laws, and, what is much more material, the improved state of military discipline, more and more perfected every day with us;—universal improvement in Europe coinciding with the general decay of Asia, (for the proud day of Asia is passed;) this improvement coinciding with the relaxation and dissolution of the Mogul government, with the decline of its warlike spirit, with the total disuse of the antient strictness of the military discipline established by Tamerlane;—the India company came to be what it is—a great empire, carrying on, subordinately, a great commerce: it became that thing, which was supposed by the Roman law irreconcileable to reason and propriety—*eundem negotiatorem et dominum:* the same power became the general trader, the same power became the supreme lord.

In this exalted situation the India company, however, still preserves traces of its original mercantile character. The whole exteriour order of its political service is carried on upon a mercantile plan and mercantile principles. In fact, the East-India Company in Asia is a state in the disguise of a merchant. Its whole service is a system of public offices in the disguise of a counting-house. Accordingly, the whole external order and series of the service, as I observed, is commercial; the principal, the inward, the real, is almost entirely political.

This system of the company's service, its order and discipline, is necessary to be explained to your lordships, that you may see in what manner the abuses have affected it. In the first place, all the persons, who go abroad in the company's civil service, enter as clerks in the counting-house, and are called by a name to correspond to it, *writers*. In that condition they are obliged to serve five years. The second step is that of a *factor*, in which they are obliged to serve three years. The third step they take is that of a *junior merchant*, in which they are obliged to serve three years more. At that period they become *senior merchants*, which is the highest stage of advance in the company's service; a rank, by which they had pretensions, before the year 1774, to the council, to the succession of the presidency, and to whatever other honours the company has to bestow.

The company had, in its early times, established factories in certain places; which factories, by degrees, grew to the name of presidencies and council, in proportion as the power and influence of the company increased, and as the political began first to struggle with, and at length to predominate over, the mercantile. In this form it continued till the year 1773; when the legislature broke in, for proper reasons urging them to it, upon that order of the service, and appointed to the superiour department persons, who had no title to that place under the ordinary usage of the service. Mr. Hastings and Mr. Barwell, whatever other titles they might have had, held solely under the act of parliament nominating them to that authority; but in all other respects, except where the act and other subsequent acts have not broken in upon it, the whole course of the service remains upon the antient footing, that is, the commercial footing, as to the gradation and order of service.

Your lordships see here a regular series of gradation, which requires eleven years, before any persons can arrive at the highest trusts and situations. You will therefore be astonished, when so long a probationary service was required, that effects, very different from those to be expected from long probation, have happened; and that in a much shorter time than those eleven years you have seen persons returning into this kingdom with affluent, with

overbearing fortunes. It will be a great part of your inquiry, when we come before your lordships to substantiate evidence against Mr. Hastings, to discover how that order came to be so completely broken down and erased, that scarce a trace of it, for any good purpose, remains. Though I will not deny, that that order, or that any order in a state, may be superseded by the ruling power, when great talents, upon pressing exigencies, are to be called forth; yet I must say, the order itself was formed upon wise principles. It furnished the persons, who were put in that course of probation, with an opportunity (if circumstances enabled them) of acquiring experience in business of revenue, trade, and policy. It gave to those, who watched them, a constant inspection of their conduct through all their progress. On the expectants of office it imposed the necessity of acquiring a character in proportion to their standing; in order that all, which they had gained by the good behaviour of years, should not be lost by the misconduct of an hour. It was a great substantial regulation. But scarce a trace of the true spirit of it remains to be discovered in Mr. Hastings's government; for Mr. Hastings established offices, nay, whole systems of offices, and especially a system of offices in 1781, which being altogether new, none of the rules of gradation applied to them; and he filled those offices in such a manner, as suited best, not the constitution nor the spirit of the service, but his own particular views and purposes. The consequence has been, that persons, in the most immature stages of life, have been appointed to conduct affairs, which required the greatest maturity of judgment, the greatest possible temper and moderation. Effects naturally consequent have followed upon it.—I shall not trouble your lordships with any further observations on this system of gradation.

I must, however, remark, before I go further, that there is something in the representation of the East-India Company, in their oriental territory, different from that, perhaps, of any other nation, that has ever transported any part of its power from one country to another. The East-India Company, in India, is not properly a branch of the British nation; it is only a deputation of individuals. When the Tartars entered into China, when the Arabs and Tartars successively entered into Indostan, when the Goths and Vandals penetrated into Europe, when the Normans forced their way into England; indeed, in all conquests, migrations, settlements, and colonizations, the new people came as the offset of a nation. The company in India does not exist as a national colony. In effect and substance, nobody can go thither, that does not go in its service. The English in India are nothing but a seminary for the succession of officers. They are a nation of placemen;—they are a commonwealth without a people;—they are a state made up wholly of magistrates. There is nothing to be, in propriety, called people, to watch, to inspect, to balance against the power of office. The power of office, so far as the English nation is concerned, is the sole power in the country. The consequence of which is, that, being a kingdom of magistrates, what is commonly called the *esprit du corps* is strong in it. This spirit of the body predominates equally in all its parts; by which the members must consider themselves as having a common interest, and that common interest separated both from that of the country, which sent them out, and from that of the country in which they act. No controul upon them exists; none, I mean, in persons, who understand their language, who understand their manners, or can apply their conduct to the laws. Therefore, in a body so constituted confederacy is easy, and has been general. Your lordships are not to expect, that that should happen in such a body, which never happened in any body or corporation; that is, that they should, in any instance, be a proper check and controul upon themselves. It is not in the nature of thing. The fundamental principle of the whole of the East-India Company's system is monopoly in some sense or other. The same principle predominates in the service abroad, and the service at home; and both systems are united into one, animated with the same spirit, that is, with the corporate spirit. The whole, taken together, is such, as has not been seen in the examples of the Moors, the Portuguese, the Spaniards, the Romans; in no old, in no recent examples. The Dutch may resemble it, but they have not an empire properly so denominated. By means of this peculiar circumstance it has not been difficult for Mr. Hastings to embody abuse, and to put himself at the head of a regular system of corruption.

Another circumstance in that service is deserving of notice. Except in the highest parts of all, the emoluments of office do not in any degree correspond with the trust, nor the nature of the office with its name. In other official systems the style, in general, is above the function; here it is the reverse. Under the name of junior merchant, senior merchant, writer, and other petty appellations of the counting-

house, you have magistrates of high dignity, you have administrators of revenues truly royal;—you have judges civil, and in some respects criminal, who pass judgment upon the greatest proporties of a great country. The legal public emoluments, that belong to them, are very often so inadequate to the real dignity of the character, that it is impossible, almost absolutely impossible, for the subordinate parts of it, which, though subordinate, are stations of power, to exist, as Englishmen, who look at a fortune to be enjoyed at home as their ultimate object, and to exist in a state of perfect incorruption in that service.

In some parts of Europe, it is true, that the greatest situations are often attended with but little emolument; yet still they are filled. Why? Because reputation, glory, fame, the esteem, the love, the tears of joy, which flow from happy sensibility, the honest applauses of a grateful country, sometimes pay the cares, anxieties and toils, which wait on great situations in the commonwealth: and in these, they pay in money what cannot be paid in fame and reputation. It is the reverse in the service of the India company. Glory is not the lot of subordinated merit; and all the subordinate parts of the gradation are officers, who, in comparison with the offices and duties entrusted with them, are miserably provided for; whereas the chief of each great presidency has emoluments securing him against every mode of temptation. But if this has not secured the head, we may easily judge how the members are to be coerced. Mr. Hastings, at the head of the service, with high legal emoluments, has fouled his hands and sullied his government with bribes. He has substituted oppression and tyranny in the place of legal government. With all that unbounded, licentious power, which he has assumed over the public revenues, instead of endeavouring to find a series of gradual, progressive, honourable, and adequate rewards for the persons, who serve the public in the subordinate but powerful situations, he has left them to prey upon the people without the smallest degree of controul. In default of honest emolument, there is the unbounded license of power; and (as one of the honestest and ablest servants of the company said to me in conversation) the civil service of the company resembled the military service of the Mahrattas, little pay, but unbounded license to plunder. I do not say, that some of the salaries given in India would not sound well here; but when you consider the nature of the trusts, the dignity of the situation, whatever the name of them may be, the powers, that are granted, the hopes, that every man has of establishing himself at home; I repeat, it is a source of infinite grievance—of infinite abuse: of which source of corrupt power we charge Mr. Hastings with having availed himself, in filling up the void of direct pay by finding out and countenancing every kind of oblique and unjust emolument: though it must be confessed, that he is far from being solely guilty of this offence.

Another circumstance, which distinguishes the East-India Company, is the youth of the persons, who are employed in the system of that service. The servants have almost universally been sent out to begin their progress and career in active occupation, and in the exercise of high authority, at that period of life, which, in all other places, has been employed in the course of a rigid education. To put the matter in a few words, they are transferred from slippery youth to perilous independence, from perilous independence to inordinate expectations, from inordinate expectations to boundless power. School-boys without tutors, minors without guardians, the world is let loose upon them with all its temptations; and they are let loose upon the world with all the powers, that despotism involves.

It is further remarkable, these servants exercise, what your lordships are now exercising, high judicial powers; and they exercise them without the smallest study of any law, either general or municipal. It is made a sort of rule in the service, a rule confirmed even by the attempts, that were made to correct it, (I mean, confirmed by Sir Elijah Impey, when, under the auspices of Mr. Hastings, he undertook to be legislator for India,) that the judicial character, the last in the order of legal progress, that, to which all professional men look up as the crown of their labours, that ultimate hope of men grown grey in professional practice, is among the first experimental situations of a company's servant. It is expressly said in that body of regulations, to which I allude, that the office and situation of a judge of the dewanny courts of adawlet is to be filled by the *junior* servants of the company; and, as the judicial emolument is not substantially equal to that of other situations, the office of a judge is to be taken, as it were *in transitu*, as a passage to other offices not of a judicial nature. As soon, therefore, as a young man has supplied the defects of his education by the advantage of some experience, he is immediately translated to a totally different office; and another young man is substituted to learn, at the expense of the property.

of India, to fill a situation, which, when he may be qualified to all, he is no longer to hold.

It is in a great measure the same with regard to the other situations. They are the situations of great statesmen, which, according to the practice of the world, require, to fill properly, rather a large converse with men and much intercourse in life, than deep study of books; though that, too, has its eminent service. We know, that in the habits of civilized life, in cultivated society, there is imbibed by men a good deal of the solid practice of government, of the true maxims of state, and every thing, that enables a man to serve his country. But these men are sent over to exercise functions, at which a statesman here would tremble, without any theoretical study, and without any of that sort of experience, which, in mixed societies of business and converse, form men gradually and insensibly to great affairs. Low cunning, intrigue and stratagem, are soon acquired; but manly, durable policy, which never sacrifices the general interest to a partial or momentary advantage, is not so cheaply formed in the human understanding.

Mr. Hastings, in his defence before the House of Commons, and in the defences he has made before your lordships, has lamented his own situation in this particular. It was much to be lamented indeed. How far it will furnish justification, extenuation, or palliation of his conduct, when we come to examine that conduct, will be seen.

These circumstances in the system have, in a great degree, vitiated and perverted what is in reality, and many things are in reality, excellent in it. They have rendered the application of all correctives and remedies to abuse, at best, precarious in their operation. The laws, that we have made, the covenants, which the company has obliged its servants to enter into, the occasional orders that have been given, at least ostensibly good, all have proved noxious to the country, instead of beneficial. To illustrate this point, I beg leave to observe to your lordships, that the servants of the company are obliged to enter into that service, not only with an impression of the general duty, which attaches upon all servants, but are obliged to engage, in a specific covenant with their masters, to perform all the duties described in that covenant (which are all the duties of their relation) under heavy penalties. They are bound to a repetition of these covenants at every step of their progress, from writer to factor, from factor to junior merchant, and from junior merchant to senior merchant. They ought, according to the rule, to renew these covenants at these times by something, (I speak without offence,) which may be said to resemble confirmation in the church. They are obliged to renew their obligation in particular to receive no gifts, gratuities, or presents whatsoever.

This scheme of covenants would have been wise and proper, if it had belonged to a judicious order and rational consistent scheme of discipline. The orders of the company have forbidden their servants to take any extraneous emoluments. The act of parliament has fulminated against them. Clear positive laws, and clear positive private engagements, have no exception of circumstances in them, no difference *quoad majus et minus*, but every one, who offends against the law, is liable to the law. The consequence is this;—he, who has deviated but an inch from the straight line, he, who has taken but one penny of unlawful emolument—and all have taken many pennies of unlawful emolument—does not dare to complain of the most abandoned extortion and cruel oppression in any of his fellow-servants. He, who has taken a trifle perhaps as the reward of a good action, is obliged to be silent, when he sees whole nations desolated around him. The great criminal, at the head of the service, has the laws in his hand; he is always able to prove the small offence, and crush the person, who has committed it. This is one grand source of Mr. Hastings's power. After he had got the better of the parliamentary commission, no complaint from any part of the service has appeared against Mr. Hastings. He is bold enough to state it as one presumption of his merit, that there has been no such complaint. No such complaint, indeed, can exist. The spirit of the corps would, of itself, almost forbid it; to which spirit an informer is the most odious and detestable of all characters, and is hunted down, and has always been hunted down, as a common enemy. But here is a new security. Who can complain, or dares to accuse? The whole service is irregular: nobody is free from small offences; and, as I have said, the great offender can always crush the small one. If you examine the correspondence of Mr. Hastings, you would imagine, from many expressions very deliberately used by him, that the company's service was made out of the very filth and dregs of human corruption; but, if you examine his conduct towards the corrupt body he describes, you would imagine he had lived in the speculative schemes of visionary perfection.

He was fourteen years at the head of that service; and there is not an instance, no, not one single instance, in which he endeavoured to detect corruption—or that he ever, in any one single instance, attempted to punish it; but the whole service, with that whole mass of enormity, which he attributes to it, slept, as it were, at once under his terrour and his protection;—under his protection, if they did not dare to move against him; under terrour, from his power to pluck out individuals, and make a public example of them, whenever he thought fit. And therefore that service, under his guidance and influence, was, beyond even what its own nature disposed it to, a service of confederacy, a service of connivance, a service composed of various systems of guilt, of which Mr. Hastings was the head and the protector. But this general connivance he did not think sufficient to secure to him the general support of the Indian interest. He went further. We shall prove to your lordships, that, when the company were driven by shame, not by inclination, to order several prosecutions against delinquents in their service, Mr. Hastings, directly contrary to the duty of his office,—directly contrary to the express and positive law of the court of directors, which law parliament had bound upon him as his rule of action,—not satisfied with his long tacit connivance, ventured, before he left his government and among his last acts, to pass a general act of pardon and indemnity, and at once ordered the whole body of the prosecutions, directed by his masters, the company, to be discharged.

Having had fourteen years lease of connivance to bestow, and giving, at the end, a general release of all suits and actions, he now puts himself at the head of a vast body enriched by his bounties, connivances and indemnities, and expects the support of those, whom he had thus fully rewarded, and discharged from the pursuit of the laws. You will find, in the course of this business, that when charges have been brought against him of any bribery, corruption, or other malversation, his course has been to answer little or nothing to that specific bribery, corruption, or malversation; his way has been to call on the court of directors to inquire of every servant, who comes to Europe, and to say, whether, there was any one man in it, that will give him an ill word. He has put himself into a situation, in which he may always safely call to his character, and will always find himself utterly incapable of justifying his conduct. So far I have troubled your lordships with the system of confederacy and connivance, which, under his auspices, was the vital principle of almost the whole service.

There is one member of the service, which I have omitted; but whether I ought to have put it first, or, as I do now, last, I must confess I am at some loss; because, though it appears to be the lowest (if any regular) part of the service, it is by far the most considerable, and the most efficient; without a full consideration and explanation of which hardly any part of the conduct of Mr. Hastings, and of many others, that may be in his situation, can be fully understood.

I have given your lordships an account of writers, factors, merchants, who exercise the office of judges, lord chancellors, chancellors of the exchequer, ministers of state, and managers of great revenues. But there is another description of men, of more importance than them all, a description you have often heard of, but which has not been sufficiently explained; I mean, the banyan. When the company's service was no more than mercantile, and the servants were generally unacquainted with the country, they used the intervention of certain factors among the natives, which were called banyans; we called them so, because they were of the tribe, or cast of the banyans or merchants, the Indians being generally distributed into trades according to their tribes. The name still continues, when the functions of the banyans are totally altered. The banyan is known by other appellations. He is called dewan or steward; and, indeed, this is a term with more propriety applied to him in several of his functions. He is, by his name of office, the steward of the household of the European gentleman: he has the management of his affairs, and the ordering of his servants. He is himself a domestic servant, and generally chosen out of that class of natives, who, by being habituated to misery and subjection, can submit to any orders, and are fit for any of the basest services. Trained under oppression (it is the true education) they are fit to oppress others. They serve an apprenticeship of servitude, to qualify them for the trade of tyranny. They know all the devices, all the little frauds, all the artifices and contrivances, the whole panoply of the defensive armour, by which ingenious slavery secures itself against the violence of power. They know all the lurking holes, all the winding recesses, of the unfortunate; and they hunt out distress and misery, even to their last retreats. They have suffered themselves; but, far from being taught by those sufferings to abstain from rigour, they have only learned the

methods of afflicting their fellow slaves. They have the best intelligence of what is done in England. The moment a company's servant arrives in India, and his English connections are known to be powerful, some of that class of people immediately take possession of him, as if he were their inheritance. They have knowledge of the country, and its affairs; they have money; they have the arts of making money. The gentleman, who comes from England, has none of these; he enters into that world, as he enters into the world at large, naked. His portion is great simplicity, great indigence, and a strong disposition to relieve himself. The banyan, once in possession, employs his tyranny, not only over the native people of his country, but often over the master himself, who has little other share in the proceedings of his servant, but in giving him the ticket of his name to mark, that he is connected with, and supported by, an European, who is himself well connected and supported at home. This is a commission, which nothing can resist. From that moment forward, it is not the Englishman, it is the black banyan, that is the master. The nominal master often lives from his hand. We know how young men are sent out of this country: we know how happy we are to hear soon, that they are no longer a burthen to their friends and parents. The banyan knows it too. He supplies the young servant with money. He has him under his power; first, from the necessity of employing such a man; and next, (and this is the more important of the two,) he has that dreadful power over his master, which every creditor has over his debtor. Actions, the most abhorrent to his nature, he must see done before his face; and thousands and thousands worse are done in his absence, and he dare not complain. The banyan extorts, robs, plunders, and then gives him just what proportion of the spoil he pleases. If the master should murmur, the very power, that was sent over to protect the people of India from these very abuses (the best things being perverted, when applied to unknown objects and put into unsuitable situations)—the very laws of England, by making the recovery of debts more easy, infinitely increase the power of the banyan over his master. Thus the supreme court of justice, the destined corrector of all abuses, becomes a collateral security for that abominable tyranny exercised by the monied banyans over Europeans as well as the natives. So that, while we are here boasting of the British power in the east, we are in perhaps more than half our service nothing but the inferiour miserable instruments of the tyranny, which the lowest part of the natives of India exercise to the disgrace of the British authority, and to the ruin of all, that is respectable among their own countrymen. They have subverted the first houses, totally ruined and undone the country, cheated and defrauded the revenue; the master a silent, sometimes a melancholy spectator, until some office of high emolument has emancipated him. This has often been the true reason, that the company's servants in India, in order to free themselves from this horrid and atrocious servitude, are obliged to become instruments of another tyranny, and must prostitute themselves to men in power, in order to obtain some office, that may enable them to escape the servitudes below, and enable them to pay their debts. And thus many have become the instruments of Mr. Hastings.

These banyans or dewans were originally among the lower casts in the country. But now it is true, that, after seeing the power and profits of these men; that there is neither power, profession, nor occupation to be had, which a reputable person can exercise, but through that channel; men of higher casts, and born to better things, have thrown themselves into that disgraceful servitude, have become menial servants to Englishmen, that they might rise by their degradation. But whoever they are, or of whatever birth, they have equally prostituted their integrity; they have equally lost their character; and, once entered into that course of life, there is no difference between the best casts and the worst. That system Mr. Hastings confirmed, established, increased, and made the instrument of the most austere tyranny, of the basest peculations, and the most scandalous and iniquitous extortions.

In the description I have given of banyans a distinction is to be made. Your lordships must distinguish the banyans of the British servants in subordinate situations, and the banyans, who are such to persons in higher authority. In the latter case the banyan is in strict subordination, because he may always be ruined by his superiour; whereas in the former, it is always in his power to ruin his nominal superiour. It was not through fear, but voluntarily, and not for the banyan's purposes, but his own, Mr. Hastings has brought forward his banyan. He seated him in the houses of the principal nobility, and invested him with farms of the revenue; he has given him enormous jobs; he has put him over the heads of a nobility, which, for their grandeur,

antiquity and dignity, might almost be matched with your lordships. He has made him supreme ecclesiastical judge, judge even of the very casts, in the preservation of the separate rules and separate privileges of which that people exists. He, who has dominion over the cast, has an absolute power over something more than life and fortune.

Such is that first or last (I know not which to call it) order in the company's service called a banyan. The mutseddies, clerks, accountants, of Calcutta, generally fall under this description. Your lordships will see hereafter the necessity of giving you, in the opening of the case, an idea of the situation of a banyan. You will see, as no Englishman, properly speaking, acts by himself, that he must be made responsible for that person called his banyan; for the power he either uses under him, or the power he has acquired over him. The banyan escapes, in the night of his complexion and situation, the inquiry, that a white man cannot stand before in this country. Through the banyans, or other black natives, a bad servant of the company receives his bribes. Through them he decides falsely against the titles of litigants in the court of casts, or in the offices of public registry. Through them Mr. Hastings has exercised oppressions, which, I will venture to say, in his own name, in his own character, daring as he is (and he is the most daring criminal, that ever existed) he never would dare to practice. Many, if not most, of the iniquities of his interiour bad administration have been perpetrated through these banyans, or other native agents and confidants; and we shall show you, that he is not satisfied with one of them; confiding few of his secrets to Europeans, and hardly any of his instruments, either native or European, knowing the secrets of each other. This is the system of banyanism, and of concealment, which Mr. Hastings, instead of eradicating out of the service, has propagated by example and by support, and enlarged by converting even Europeans into that dark and insidious character.

I have explained, or endeavoured to explain, to your lordships these circumstances of the true spirit, genius, and character, more than the ostensible institutions, of the company's service. I now shall beg leave to bring before you one institution, taken from the mercantile constitution of the company, so excellent, that I will venture to say, that human wisdom has never exceeded it. In this excellent institution the counting-house gave lessons to the state. The active, awakened, and enlightened principle of self-interest will provide a better system for the guard of that interest, than the cold, drowsy wisdom of those, who provide for a good out of themselves, ever contrived for the public. The plans sketched by private prudence for private interest, the regulations by mercantile men for their mercantile purposes, when they can be applied to the discipline and order of the state, produce a discipline and order, which no state should be ashamed to copy. The company's mercantile regulations are admirably fitted for the government of a remote, large, disjointed empire. As merchants, having factors abroad in distant parts of the world, they have obliged them to a minuteness and strictness of register, and to a regularity of correspondence, which no state has ever used in the same degree with regard to its public ministers. The company has made it a fundamental part of their constitution, that almost their whole government shall be a written government. Your lordships will observe, in the course of the proceeding, the propriety of opening fully to you this circumstance in the government of India; that is, that the company's government is a government of writing; a government of record. The strictest court of justice, in its proceeding, is not more, perhaps not so much a court of record as the India company's executive service is, or ought to be, in all its proceedings.

In the first place, they oblige their servants to keep a journal or diary of all their transactions, public and private: they are bound to do this by an express covenant. They oblige them, as a corrective upon that diary, to keep a letter-book, in which all their letters are to be regularly entered. And they are bound, by the same covenant, to produce all those books upon requisition, although they should be mixed with affairs concerning their own private negotiations and transactions of commerce, or their closest and most retired concerns in private life. But, as the great corrective of all, they have contrived, that every proceeding in public council shall be written:—no debates merely verbal. The arguments, first or last, are to be in writing, and recorded. All other bodies, the Houses of Lords, Commons, Privy Council, Cabinet Councils for secret state deliberations, enter only resolves, decisions, and final resolutions of affairs; the argument, the discussion, the dissent, does very rarely, if at all, appear. But the company has proceeded much further, and done much more wisely, because they proceeded upon mercantile principles; and they have provided, either by orders or course of office,

that all shall be written, the proposition, the argument, the dissent. This is not confined to their great council; but this order ought to be observed, as I conceive, and I see considerable traces of it in practice, in every provincial council, whilst the provincial councils existed, and even down to the minutest ramification of their service. These books, in a progression from the lowest councils to the highest presidency, are ordered to be transmitted, duplicate and triplicate, by every ship, that sails to Europe. On this system an able servant of the company, and high in their service, has recorded his opinion, and strongly expresses his sentiments. Writing to the court of directors, he says, "It ought to be remembered, that the basis, upon which you rose to power, and have been able to stand the shock of repeated convulsions, has been the accuracy and simplicity of mercantile method, which makes every transaction in your service, and every expenditure, a matter of record."

My lords, this method not only must produce to them, if strictly observed, a more accurate idea of the nature of their affairs, and the nature of their expenditures, but it must afford them no trivial opportunity and means of knowing the true characters of their servants, their capacities, their ways of thinking, the turn and bias of their minds. If well employed, and but a little improved, the East-India Company possessed an advantage unknown before to the chief of a remote government. In the most remote parts of the world, and in the minutest parts of a remote service, every thing came before the principal with a domestic accuracy and local familiarity. It was in the power of a director, sitting in London, to form an accurate judgment of every incident, that happened upon the Ganges and the Gogra.

The use of this recorded system did not consist only in the facility of discovering what the nature of their affairs, and the character and capacity of their servants, was; but it furnished the means of detecting their misconduct; frequently of proving it too, and of producing the evidence to it judicially under their own hands. For your lordships must have observed, that it is rare indeed, that, in a continued course of evil practices, any uniform method of proceeding will serve the purposes of the delinquent. Innocence is plain, direct and simple: guilt is a crooked, intricate, inconstant and various thing. The iniquitous job of to-day may be covered by specious reasons; but when the job of iniquity of to-morrow succeeds, the reasons, that have coloured the first crime, may expose the second malversation. The man of fraud falls into contradiction, prevarication, confusion. This hastens, this facilitates conviction. Besides, time is not allowed for corrupting the records. They are flown out of their hands; they are in Europe; they are safe in the registers of the company; perhaps they are under the eye of parliament, before the writers of them have time to invent an excuse for a direct contrary conduct to that, to which their former pretended principles applied. This is a great, a material part of the constitution of the company. My lords, I do not think it to be much apologized for, if I repeat, that this is the fundamental regulation of that service; and which, if preserved in the first instance, as it ought to be, in official practice in India, and then used as it ought to be in England, would afford such a mode of governing a great, foreign, dispersed empire, as I will venture to say, few countries ever possessed even in governing the most limited and narrow jurisdiction.

It was the great business of Mr. Hastings's policy to subvert this great political edifice. His first mode of subverting it was by commanding the public ministers, paid by the company, to deliver their correspondence upon the most critical and momentous affairs to him, in order to be suppressed and destroyed at his pleasure. To support him in this plan of spoliation, he has made a mischievous distinction in public business between public and private correspondence. The company's orders and covenants made none. There are, readily I admit, thousands of occasions, in which it is not proper to divulge promiscuously a private correspondence, though on public affairs, to the world; but there is no occasion, in which it is not a necessary duty, on requisition, to communicate your correspondence, to those, who form the paramount government, on whose interests, and on whose concerns, and under whose authority, this correspondence has been carried on. The very same reasons, which require secrecy with regard to others, demand the freest communication to them. But Mr. Hastings has established principles of confidence and secrecy towards himself, which have cut off all confidence between the directors and their ministers, and effectually kept them at least out of the secret of their own affairs.

Without entering into all the practices, by which he has attempted to maim the company's records, I shall state one more to your lordships; that is, his avowed appointment of spies and under-agents, who shall carry on the real state business, while there are public and on-

tensible agents, who are not in the secret. The correspondence of those private agents he holds in his own hands, communicates as he thinks proper, but most commonly withholds. There remains nothing for the directors but the shell and husk of a dry, formal, official correspondence, which neither means any thing, nor was intended to mean any thing.

These are some of the methods, by which he has defeated the purposes of the excellent institution of a recorded administration. But there are cases to be brought before this court, in which he has laid the axe at once to the root; which was, by delegating out of his own hands a great department of the powers of the company, which he was himself bound to execute, to a board, which was not bound to record their deliberations with the same strictness as he himself was bound. He appointed of his own usurped authority a board for the administration of the revenue, the members of which were expressly dispensed from recording their dissents, until they chose it; and in that office. as in a great gulf, a most important part of the company's transactions has been buried.

Notwithstanding his unwearied pains in the work of spoliation, some precious fragments are left, which we ought infinitely to value; by which we may learn, and lament, the loss of what he has destroyed. If it were not for those inestimable fragments and wrecks of the recorded government, which have been saved from the destruction, which Mr. Hastings intended for them all, the most shameful enormities, that have ever disgraced a government, or harassed a people, would only be known in this country by secret whispers, and unauthenticated anecdotes: the disgracers of government, the vexers and afflicters of mankind, instead of being brought before an awful public tribunal, might have been honoured with the highest distinctions and rewards their country has to bestow; and sordid bribery, base peculation, iron-handed extortion, fierce, unrelenting tyranny, might themselves have been invested with those sacred robes of justice, before which this day they have cause to tremble.

Mr. Hastings, sensible of what he suffers from this register of acts and opinions, has endeavoured to discredit and ruin what remains of it. He refuses, in his defence to the House of Commons, in letters to the court of directors, in various writings and declarations, he refuses to be tried by his own recorded declarations; he refuses to be bound by his own opinions, delivered under his own hand. He knows, that he and the record cannot exist together. He knows, that what remains of the written constitution, which he has not destroyed, is enough to destroy him. He claims a privilege of systematic inconstancy; a privilege of prevarication; a privilege of contradiction; a privilege of not only changing his conduct, but the principles of his conduct, whenever it suits his occasions. But I hope your lordships will show the destroyers of that wise constitution, and the destroyers of those records, which are to be the securities against malversation in office, the discoverers and avengers of it, that whoever destroys the discoverer establishes the iniquity; that, therefore, your lordships will bind him to his own declarations, given on record under his own hand; that you will say to this unfaithful servant of the company what was said to another unfaithful person, upon a far less occasion, by a far greater authority, "out of thy own mouth will I judge thee, thou wicked servant."

Having gone through what I have been instructed might be necessary to state to your lordships concerning the company's constitution, I mean the real inside, and not the shell, of its constitution; having stated the abuses, that existed in it; having stated how Mr. Hastings endeavoured to perpetuate and to increase and to profit of the abuse, and how he has systematically endeavoured to destroy, and has in some instances in fact destroyed, many things truly excellent in that constitution; if I have not wasted your time in explanation of matters, that you are already well acquainted with, I shall next beg leave to state to you the abuse in some particulars of the other part of the public authority, which the company acquired over the natives of India in virtue of the royal charter of the present Mogul emperour, in the year 1766.

My lords, that you may the better judge of the abuse Mr. Hastings has made of the powers vested in him, it will be expedient to consider a little, who the people are, to whose prejudice he has abused these powers. I shall explain this point with as much brevity as is consistent with the distinctness, with which I mean to bring the whole before your lordships; and I beg to observe to you, that this previous discourse, rather explanatory than accusatorial (if I may use the expression) is meant rather to elucidate the nature of the matter to come before you in regular charges, than as proof of the charges themselves.

I know, that a good deal of latitude is allowed to advocates, when opening a cause in a private court, to indulge themselves in their

narratives leading to the charges they intend to bring. They are not always called to the strictest account for such prefatory matter, because the court, when it comes to judge, sifts and distinguishes it from the points to be strictly proved, and on whose merits the cause relies.

But I wish your lordships to know, that, with the high opinion I have of your gravity, (and it is impossible for a man to conceive a higher,) and sensible of the weight of those I represent at this place, namely, the Commons of Great Britain, I should be sorry, that any one substantial fact, even in this explanatory opening, or even the colour of the fact, should be alleged, which, when called upon, I should not be ready to make good to you by proof: I mean, by proof adapted to its nature; public opinion by evidence of public opinion; by record that, to which record is applicable; by oral testimony things, to which oral testimony alone can be produced; and last of all, that, which is matter of historic proof, by historic evidence. This I hope to do with the usual allowance to errours and mistakes, which is the claim of human infirmity.

Then, my lords, two distinct people inhabit India. Two sorts of people inhabit the same country, as totally distinct from each other in characters, lives, opinions, prejudices, and manners, as the inhabitants of countries most remote from each other. For both of these descriptions Mr. Hastings was bound to provide equally, agreeable to the terms of the charter, which the company received from the lawful governing power of that country;—a charter received at its own solicitation;—a charter, not forced upon us by a superiour power, but given at the immediate solicitation of the principal servants belonging to the company;—a charter solemnly accepted by the company; and by them, I am very sorry to say, little regarded; or, at least, little regarded by their principal servants.

My lords, the first description of people, who are subjected virtually to the British empire through those mediums, which I have described to you, are the original inhabitants of Hindostan, who have in all time, and beyond all the eras, which we use, (I mean always the two grand eras excepted,) been the aboriginal inhabitants and proprietors of that country; with manners, religion, customs, and usages appropriated to themselves, and little resembling those of the rest of mankind. This description of men is commonly called Gentûs. The system and principle of that government is locality. Their laws, their manners, their religion, are all local.

Their legislator, whoever he was, (for who he was is a matter lost in the mists of a most obscure antiquity,) had it as a great leading principle of his policy to connect the people with their soil. Accordingly, by one of those anomalies, which a larger acquaintance with our species daily discovers, and which perhaps an attentive reflection might explain in the nature of man, this aboriginal people of India, who are the softest in their manners of any of our race, approaching almost to feminine tenderness, who are formed constitutionally benevolent, and, in many particulars, made to fill a larger circle of benevolence than our morals take in, who extend their good-will to the whole animal creation;—these people are, of all nations, the most unalliable to any other part of mankind. They cannot—the highest orders of them, at least, cannot come into contact with any other. That bond, which is one of the chief instruments of society, and which, supporting the individual, connects the species, can have no existence with them—I mean the convivial bond. That race can be held to no other by that great link of life. No Hindû can mix at meals even with those, on whom he depends for the meat he eats. This circumstance renders it difficult for us to enter with due sympathy into their concerns, or for them to enter into ours, even when we meet on the same ground. But there are other circumstances, which render our intercourse, in our mutual relation, very full of difficulty. The sea is between us. The mass of that element, which, by appearing to disconnect, unites mankind, is to them a forbidden road. It is a great gulf fixed between you and them—not so much that elementary gulf, but that gulf, which manners, opinions and laws have radicated in the very nature of the people. None of their high casts, without great danger to his situation, religion, rank and estimation, can ever pass the sea; and this forbids, for ever, all direct communication between that country and this. That material and affecting circumstance, my lords, makes it ten times more necessary, since they cannot come to us, to keep a strict eye upon all persons, who go to them. It imposes upon us a stricter duty to guard, with a firm and powerful vigilance, those, whose principles of conscience weaken their principles of self-defence. If we undertake to govern the inhabitants of such a country, we must govern them upon their own principles and maxims, and not upon ours. We must not think to force them into the narrow circle of our ideas; we must extend ours to take in their system of opinions and rites, and

the necessities which result from both; all change on their part is absolutely impracticable. We have more versatility of character and manners, and it is we, who must conform. We know what the empire of opinion is in human nature. I had almost said, that the law of opinion was human nature itself. It is, however, the strongest principle in the composition of the frame of the human mind; and more of the happiness and unhappiness of mankind resides in that inward principle, than in all external circumstances put together. But if such is the empire of opinion even among us, it has a pure, unrestrained, complete, and despotic power among them. The variety of balanced opinions in our minds weakens the force of each; for in Europe, sometimes, the laws of religion differ from the laws of the land; sometimes, the laws of the land differ from our laws of honour; our laws of honour are full of caprice, differing from those other laws, and sometimes differing from themselves: but there the laws of religion, the laws of the land, and the laws of honour, are all united and consolidated in one invariable system, and bind men by eternal and indissoluble bonds to the rules of what, among them, is called his *cast*.

It may be necessary just to state to your lordships what a *cast* is. The Gentû people, from the oldest time, have been distributed into various orders, all of them hereditary: these family orders are called casts; these casts are the fundamental part of the constitution of the Gentû commonwealth, both in their church and in their state.

Your lordships are born to hereditary honours in the chief of your houses. The rest mix with the people. With the Gentûs, they, who are born noble, can never fall into any second rank. They are divided into four orders; the Brahmins, the Chittery, the Bice, and the Soodur, with many subdivisions in each. An eternal barrier is placed between them. The higher cannot pass into the lower; the lower cannot rise into the higher. They have all their appropriated rank, place, and situation, and their appropriated religion too; which is essentially different in its rites and ceremonies, sometimes in its object, in each of those casts. A man, who is born in the highest cast, which at once unites what would be tantamount, in this country, to the dignity of the peerage, and the ennobled sanctity of the Episcopal character;—the Brahmin, who sustains these characters, if he loses his cast, does not fall into an inferiour order, the Chittery, the Bice, or the Soodur, but he is thrown at once out of all ranks of society. He is precipitated from the proudest elevation of respect and honour to a bottomless abyss of contempt; from glory to infamy; from purity to pollution; from sanctity to profanation. No honest occupation is open to him. His children are no longer his children. Their parent loses that name. The conjugal bond is dissolved. Few survive this most terrible of all calamities. To speak to an Indian of this cast is to speak to him of his all.

But the rule of cast has, with them, given one power more to fortune, than the manners of any other nation were ever known to do. For it is singular, the cast may be lost, not only by certain voluntary crimes, but by certain involuntary sufferings, disgraces, and pollutions, that are utterly out of their power to prevent. Those, who have patiently submitted to imprisonment—those, who have not flinched from the scourge—those, who have been as unmoved as marble under torture—those, who have laughed at the menaces of death itself—have instantly given way, when it has been attempted to subject them to any of those pollutions, by which they lose cast. To this cast they are bound by all laws of all descriptions, human and divine; and inveterate usage has radicated it in them to a depth, and with an adhesion, with which no other known prejudice has been known to exist. Tyranny is, therefore, armed against them with a greater variety of weapons than are found in its ordinary stores.

This, among a thousand other considerations, speaks to us in very authoritative language, with what care and circumspection we ought to handle people so delicate. In the course of this trial your lordships will see with horrour the use, which Mr. Hastings made, through several of his wicked and abominable instruments, chosen from the natives themselves, of these superadded means of oppression. I shall prove, in the course of this trial, that he has put his own menial domestic servant—a wretch totally dependent—a wretch grossly ignorant—the common instrument of his bribery and peculation;—he has enthroned him, I say, on the first seat of ecclesiastical jurisdiction, which was to decide upon the casts of all those people, including their rank, their family, their honour, and their happiness here, and, in their judgment, their salvation hereafter. Under the awe of this power, no man dared to breathe a murmer against his tyranny. Fortified in this security, he says, Who complains of me?—No, none of us dare complain of you, says the trembling Gentû.

No! your menial servant has my cast in his power. I shall not trouble your lordships with mentioning others; it was enough, that Canto Baboo, and Ginga Govind Sing, names, to which your lordships are to be familiarized hereafter;—it is enough, that those persons had the cast and character of all the people of Bengal in their hands. Through them he has taken effectual security against all complaint. Your lordships will hence discern how very necessary it is become, that some other personage should intervene, should take upon him their representation, and by his freedom and his power should supply the defects arising from their servitude and their impotence. The Commons of Great Britain charge themselves with this character.

My lords, these Gentû people are the original people of Hindostan. They are still, beyond comparison, the most numerous. Faults this nation may have;—but God forbid we should pass judgment upon people, who framed their laws and institutions prior to our insect origin of yesterday. With all the faults of their nature, and errours of their institutions, their institutions, which act as powerfully on their natures, have two material characteristics, which entitle them to respect:—first, great force and stability; and next, excellent moral and civil effects. Their stability has been proved by their holding on an uniform tenour for a duration commensurate to all the empires with which history has made us acquainted; and they still exist in a green old age, with all the reverence of antiquity, and with all the passion, that people have to novelty and change. They have stood firm on their antient base—they have cast their roots deep in their native soil; perhaps because they have never spread them any where else than in their native soil. Their blood, their opinions, and the soil of their country, make one consistent piece; admitting no mixture, no adulteration, no improvement: accordingly, their religion has made no converts; their dominion has made no conquests; but, in proportion as their laws and opinions were concentred within themselves, and hindered from spreading abroad, they have doubled their force at home. They have existed in spite of Mahomedan and Portuguese bigotry; in spite of Tartarian and Arabian tyranny; in spite of all the fury of successive foreign conquest; in spite of a more formidable foe—the avarice of the English dominion.

I have spoken now, my lords, of what their principles are;—their laws and religious institutions, in point of force and stability: I have given instances of their force in the very circumstance, in which all the institutions of mankind in other respects show their weakness. They have existed, when the country has been otherwise subdued. This alone furnishes full proof, that there must be some powerful influence resulting from them beyond all our little fashionable theories upon such subjects.

The second consideration in the Gentû institutions is their beneficial effects, moral and civil. The policy, civil or religious, or, as theirs is, composed of both, that makes a people happy, and a state flourishing, (putting further and higher considerations out of the way, which are not now before us,) must undoubtedly, so far as human considerations prevail, be a policy wisely conceived in any scheme of government. It is confirmed by all observation, that, where the Hindû religion has been established, that country has been flourishing. We have seen some patterns remaining to this day. The very country, which is to be the subject of your lordships judicial inquiry, is an instance, by an entire change of government, of the different effects resulting from the rapacity of a foreign hand, and the paternal, lenient, protecting arm of a native government, formed on the long connection of prejudice and power. I shall give you its state under the Hindû government from a book written by a very old servant of the company, whose authority is of the greater weight, as the very destruction of all this scheme of government is the great object of the author.

The author, Mr. Holwell, divides the country of Bengal into its different provinces. He supposes what they then paid to the supreme government; he supposes what the country is capable of yielding; and his project is to change entirely the application of the revenues of the country, and to secure the whole into the hands of government. In enumerating these provinces, at last he comes to the province of Burdwan.

"In truth (says this author) it would be almost cruelty to molest this happy people; for in this district are the only vestiges of the beauty, purity, piety, regularity, equity, and strictness of the antient Hindostan government. Here the property, as well as the liberty, of the people are inviolate. Here no robberies are heard of, either public or private. The traveller, either with or without merchandise, becomes the immediate care of the government, which allots him guards, without any expense, to conduct him from stage to stage; and these are accountable for the safety and accommodation of his person and effects. At the end of the first stage he is delivered over, with

certain benevolent formalities, to the guards of the next, who, after interrogating the traveller as to the usage he had received in his journey, dismiss the first guard with a written certificate of their behaviour, and a receipt for the traveller and his effects; which certificate and receipt are returnable to the commanding officer of the first stage, who registers the same, and regularly reports it to the rajah."

"In this form the traveller is passed through the country; and if he only passes, he is not suffered to be at any expense for food, accommodation, or carriage for his merchandise or baggage; but it is otherwise if he is permitted to make any residence in one place above three days, unless occasioned by sickness, or any unavoidable accident. If any thing is lost in this district, for instance a bag of money or other valuables, the person, who finds it, hangs it upon the next tree, and gives notice to the nearest chowkey, or place of guard; the officer of which orders immediate publication of the same by beat of tomtom or drum."

These, my lords, are the effects universally produced by the Hindû polity throughout that vast region, before it was distorted and put out of frame by the barbarism of foreign conquests. Some choice reserved spots continued to flourish under it to the year 1756. Some remained till Mr. Hastings obtained the means of utterly defacing them. Such was the prospect of Benares under the happy government of Bulwant Sing. Such was the happy state of the same Benares in the happy days of Cheit Sing, until in the year 1781 Mr. Hastings introduced *his* reform into that country.

Having stated the general outline of the manners of the original people of Hindostan; having stated the general principles of their policy, which either prohibit connection, or oblige us to a connection very different from what we have hitherto used towards them, I shall leave it to your lordships' judgment, whether you will suffer such fair monuments of wisdom and benevolence to be defaced by the rapacity of your governours. I hope I have not gone out of my way to bring before you any circumstance relative to the Gentû religion and manners, further than as they relate to the spirit of our government over them; for though there never was such food for the curiosity of the human mind, as is found in the manners of this people, I pass it totally over.

I wish to divide this preliminary view into six periods; and your lordships will consider that of the Hindûs, which I have now mentioned, as the first era.

The second era is an era of great misfortune to that country, and to the world in general; I mean, the time of the prophet Mahomed. The enthusiasm, which animated his first followers, the despotic power, which religion obtained through that enthusiasm, and the advantages, derived from both, over the enervated great empires, and broken, disunited lesser governments of the world, extended the influence of that proud and domineering sect from the banks of the Ganges to the banks of the Loire.

This second period is the era of the Arabs. These people made a great and lasting impression on India. They established, very early, Mahomedan sovereigns in all parts of it; particularly in the kingdom of Bengal, which is the principal object of our present inquiry. They held that kingdom, for a long series of years, under a dynasty of thirty-three kings; having begun their conquest, and founded their dominion in Bengal, not very long after the time of their prophet.

These people, when they first settled in India, attempted with the ferocious arm of their prophetic sword to change the religion and manners of that country; but at length perceiving, that their cruelty wearied out itself, and never could touch the constancy of the sufferers, they permitted the native people of the country to remain in quiet, and left the Mahomedan religion to operate upon them as it could by appealing to the ambition or avarice of the great, or by taking the lower people, who have lost their casts, into this new sect; and thus, from the refuse of the Gentû, increasing the bounds of the Mahomedan religion. They left many of the antient rajahs of the country possessed of an inferiour sovereignty; and, where the strength of the country or other circumstances would not permit this subordination, they suffered them to continue in a separate state, approaching to independence, if not wholly independent.

The Mahomedans, during the period of the Arabs, never expelled or destroyed the native Gentû nobility, zemindars, or landholders of the country. They all, or almost all, remained fixed in their places, properties, and dignities; and the shadows of several of them remain under our jurisdiction.

The next, which is the third era, is an era the more necessary to observe upon, because Mr. Hastings has made many applications to it in his defence before the Commons; namely, the invasion of the Tartars, or the era of Tamerlane. These Tartars did not establish themselves on the ruins of the Hindûs. Their

conquests were over the other Mahomedans: for Tamerlane invaded Hindostan, as he invaded other countries, in the character of the great reformer of the Mahomedan religion. He came as a sort of successour to the rights of the prophet upon a divine title. He struck at all the Mahomedan princes, who reigned at that time. He considered them as apostates, or at least as degenerated from the faith, and as tyrants abusing their power. To facilitate his conquests over these, he was often obliged to come to a sort of a composition with the people of the country he invaded. Tamerlane had neither time, nor means, nor inclination, to dispossess the antient rajahs of the country.

Your lordships will observe, that I propose nothing more, than to give you an idea of the principles of policy which prevailed in these several revolutions, and not an history of the furious military achievements of a barbarous invader. Historians, indeed, are generally very liberal of their information concerning every thing but what we ought to be very anxious to know. They tell us, that India was conquered by Tamerlane, and conquered in such a year. The year will be found to coincide somewhere, I believe, with the end of the fourteenth century. Thinking the mere fact as of little moment, and its chronology as nothing, but thinking the policy very material, which, indeed, is to be collected only here and there, in various books written with various views, I shall beg leave to lay before you a very remarkable circumstance relative to that policy, and taken from the same book to which I formerly referred, Mr. Holwell's.

"When the Hindû rajahs, or princes of Hindostan, submitted to Tamerlane, it was on these capital stipulations:—that the emperour should marry a daughter of Rajah Cheit Sing's house; that the head of this house should be in perpetuity governours of the citadel of Agra, and anoint the king at his coronation; and that the emperours should never impose the jessera (or poll-tax) upon the Hindûs."

Here was a conquerour, as he is called, coming in upon terms; mixing his blood with that of the native nobility of the country he conquered; and, in consequence of this mixture, placing them in succession upon the throne of the country he subdued; making one of them even hereditary constable of the capital of his kingdom, and thereby putting his posterity as a pledge into their hands. What is full as remarkable, he freed the Hindûs for ever from that tax, which the Mahomedans have laid upon every country, over which the sword of Mahomed prevailed; namely, a capitation tax upon all, who do not profess the religion of the Mahomedans. But the Hindûs, by express charter, were exempted from that mark of servitude, and thereby declared not to be a conquered people. The native princes, in all their transactions with the Mogul government, carried the evident marks of this free condition in a noble independency of spirit. Within their own districts the authority of many of them seemed entire. We are often led into mistakes concerning the government of Hindostan, by comparing it with those governments where the prince is armed with a full, speculative, entire authority; and where the great people have, with great titles, no privileges at all; or, having privileges, have those privileges only as subjects. But in Hindostan the modes, the degrees, the circumstances of subjection, varied infinitely. In some places hardly a trace at all of subjection was to be discerned; in some the rajahs were almost assessors of the throne, as in this case of the Rajah Cheit Sing. These circumstances mark, that Tamerlane, however he may be indicated by the odious names of Tartar and conquerour, was no barbarian;—that the people, who submitted to him, did not submit with the abject submission of slaves to the sword of a conquerour, but admitted a great, supreme emperour, who was just, prudent, and politic, instead of the ferocious, oppressive lesser Mahomedan sovereigns, who had before forced their way by the sword into the country.

That country resembled more a republic of princes with a great chief at their head, than a territory in absolute, uniform, systematic subjection from one end to the other; in which light Mr. Hastings and others of late have thought proper to consider it. According to them, if a subordinate prince, like Cheit Sing, was not ready to pay any exorbitant sum on instant demand, or submit to any extent of fine, which should be inflicted upon him by the mere will of the person, who called *robbery* a *fine*, and who took the measure of that fine without either considering the means of paying, or the degree of delinquency, that justified it; their properties, liberties and lives were instantly forfeited. The rajahs of that country were armed;—they had fortresses for their security;—they had troops. In the receipt of both their own and the imperial revenue, their securities for justice were in their own hands: but the policy of the Mogul princes very rarely led them to push that people to such extremity, as it is supposed, that,

on every slight occasion, we have a right to push those, who are the subjects of our pretended conquest.

Mr. Holwell throws much light on this policy, which became the standing law of the empire.—

"In the unfortunate wars, which followed the death of Manz O'Din Savajee, Cheit Sing (the great rajah we have just mentioned) with a select body of Rhajapoots, by a well conducted retreat, recovered Agra; and was soon after reconciled to the king (the Mogul) and admitted to his favour; conformable to the steady policy of this government in keeping a good understanding with the principal rajahs, and more especially with the head of this house, who is ever capable of raising and fomenting a very formidable party upon any intended revolution in this despotic and precarious monarchy."

You see, that it was the monarchy, that was precarious, not the rights of the subordinate chiefs. Your lordships see, that notwithstanding our ideas of oriental despotism, under the successours of Tamerlane, these principal rajahs, instead of being called wretches, and treated as such, as Mr. Hastings has thought it becoming to call and treat them, when they were in arms against their sovereign, were regarded with respect, and were admitted to easy reconciliations; because in reality, in their occasional hostilities, they were not properly rebellious subjects, but princes, often asserting their natural rights, and the just constitution of the country.

This view of the policy, which prevailed during the dynasty of Tamerlane, naturally conducts me to the next, which is the fourth era in this history—I mean the era of the emperour Akber. He was the first of the successours of Tamerlane, who obtained possession of Bengal. It is easy to show of what nature his conquest was. It was over the last Mahomedan dynasty. He too, like his predecessor Tamerlane, conquered the prince, not the country. It is a certain mark, that it was not a conquered country in the sense, in which we commonly call a country conquered,—that the natives, great men and landholdhers, continued in every part in the possession of their estates, and of the jurisdictions annexed to them. It is true, that in the several wars for the succession to the Mogul empire, and in other of their internal wars, severe revenges were taken, which bore resemblance to those taken in the war of the Roses in this country, where it was the common course, in the heat of blood,—"off with his head, so much for Buckingham."—Yet, where the country again recovered its form and settlement, it recovered the spirit of a mild government. Whatever rigour was used with regard to the Mahomedan adventurers from Persia, Turkey, and other parts, who filled the places of servile grandeur in the Mogul court, the Hindûs were a favoured, protected, gently treated people.

The next, which is the fifth era, is a troubled and vexatious period—the era of the independent soubahs of Bengal. Five of these soubahs or viceroys governed from about the year 1717, or thereabouts. They grew into independence partly by the calamities and concussions of that empire, which happened during the disputes for the succession of Tamerlane; and partly, and indeed principally, by the great shock, which the empire received when Thamas Kouli Khân broke into that country, carried off its revenues, overturned the throne, and massacred not only many of the chief nobility, but almost all the inhabitants of the capital city. This rude shock, which that empire was never able to recover, enabled the viceroys to become independent; but their independence led to their ruin. Those, who had usurped upon their masters, had servants, who usurped upon them. Allaverdy Khân murdered his master, and opened a way into Bengal for a body of foreign invaders, the Mahrattas, who cruelly harassed the country for several years. Their retreat was at length purchased, and by a sum, which is supposed to amount to five millions sterling. By this purchase he secured the exhausted remains of an exhausted kingdom, and left it to his grandson Surajah w Dowlah in peace and poverty. On the fall of Surajah w Dowlah, in 1756, commenced the last, which is the sixth,—the era of the British empire.

On the fifth dynasty I have only to remark to your lordships, that, at its close, the Hindû chiefs were almost every where found in possession of the country; that though Allaverdy Khân was a cruel tyrant, though he was an untitled usurper, though he racked and tormented the people under his government, urged, however, by an apparent necessity from an invading army of 100,000 horse in his dominions; yet, under him, the rajahs still preserved their rank, their dignity, their castles, their houses, their seigniories, all the insignia of their situation, and always the right, sometimes also the means, of protecting their subordinate people, till the last and unfortunate era of 1756.

Through the whole of this sketch of history

I wish to impress but one great important truth upon your minds; namely, that through all these revolutions in government, and changes in power, an Hindû polity, and the spirit of an Hindû government, did more or less exist in that province, with which he was concerned, until it was finally to be destroyed by Mr. Hastings.

My lords, I have gone through all the eras precedent to those of the British power in India, and am come to the first of those eras. Mr. Hastings existed in India, and was a servant of the company before that era, and had his education between both. He is an antediluvian with regard to the British dominion in Bengal. He was co-existent with all the acts and monuments of that revolution, and had no small share in all the abuses of that abusive period, which preceded his actual government. But, as it was during that transit from eastern to western power, that most of the abuses had their origin, it will not be perfectly easy for your lordships thoroughly to enter into the nature and circumstances of them, without an explanation of the principal events, that happened from the year 1756, until the commencement of Mr. Hastings's government; during a good part of which time we do not often lose sight of him. If I find it agreeable to your lordships; if I find, that you wish to know these annals of Indian suffering and British delinquency; if you desire, that I should unfold the series of the transactions from 1756 to the period of Mr. Hastings's government in 1771;—that you may know how far he promoted what was good; how far he rectified what was evil; how far he abstained from innovation in tyranny, and contented himself with the old stock of abuse;—your lordships will have the goodness to consult the strength, which, from late indisposition, begins almost to fail me. And if you think the explanation is not time lost in this new world, and in this new business, I shall venture to sketch out, as briefly, and with as much perspicuity as I can give them, the leading events of that obscure and perplexed period, which intervened between the British settlement in 1757, and Mr. Hastings's government. If I should be so happy as to succeed in that attempt, your lordships' minds will be prepared for hearing this cause. Then, your lordships will have a clear view of the origin and nature of the abuses, which prevailed in that government before Mr. Hastings obtained his greatest power, and since that time; and then we shall be able to enter fully and explicitly into the nature of the cause; and I should hope, that it will pave the way, and make every thing easy for your subsequent justice.

I therefore wish to stop at this period, in which Mr. Hastings became active in the service, pretty near the time when he began his political career;—and here, my lords, I pause, wishing your indulgence at such time as will suit your convenience for pursuing the rest of this eventful history.

TRIAL.—FOURTH DAY, 16*th February* 1788.

(Mr. Burke.)

My Lords,—In what I had the honour of laying before your lordships yesterday, and in what I may further trouble you with to-day, I wish to observe a distinction, which if I did not lay down so perfectly as I ought, I hope I shall now be able to mark it out with sufficient exactness and perspicuity.

First, I beg leave to observe, that what I shall think necessary to state, as matter of preliminary explanation, in order to give your lordships a true idea of the scene of action—of the instruments, which Mr. Hastings employed—and the effects, which they produced—all this I wish to be distinguished from matter brought to criminate. Even the matter as stated by me, which may be hereafter brought to criminate, so far as it falls to my share at present, is only to be considered, in this stage of the business, as merely illustrative. Your lordships are to expect, as undoubtedly you will require, substantial matter of crimination to be laid open for that purpose, at the moment when the evidence to each charge is ready to be produced to you. Thus your lordships will easily separate historical illustration from criminal opening. For instance, if I stated yesterday to your lordships, as I did, the tyranny and cruelty of one of the usurping viceroys, whose usurpation and whose vices led the way to the destruction of his country, and the introduction of a foreign power—I do not mean to charge Mr. Hastings with any part of that guilt. What bears upon Mr. Hastings is, his having avowedly looked to such a tyrant and such a usurper, as his model, and followed that pernicious example with a servile fidelity.

When I have endeavoured to lay open to your lordships any thing abusive, or leading to abuse, from defects or errours in the constitution of the company's service—I did not mean to criminate Mr. Hastings on any part of those defects and errours. I state them to show,

that he took advantage of the imperfections of the institution to let in his abuse of the power, with which he was intrusted. If, for a further instance, I have stated, that in general the service of the India company was insufficient in legal pay or emolument, and abundant in the means of illegal profit—I do not state that defect as owing to Mr. Hastings. But I state it as a fact, to show in what manner and on what pretences he did, fraudulently, corruptly, and for the purposes of his own ambition, take advantage of that defect; and, under colour of reformation, make an illegal, partial, corrupt rise of emoluments to certain favoured persons without regard to the interests of the service at large: increasing rather than lessening the means of illicit emolument, as well as loading the company with many heavy and ruinous expenses in avowed salaries and allowances.

Having requested your lordships to keep in mind, which I trust you would do, even without my taking the liberty of suggesting it to you, these necessary distinctions; I shall revert to the period, at which I closed yesterday—that great and memorable period, which has remotely given occasion to the trial of this day.

My lords, to obtain empire is common: to govern it well has been rare indeed. To chastise the guilt of those, who have been instruments of imperial sway over other nations, by the high superintending justice of the sovereign state, has not many striking examples among any people. Hitherto we have not furnished our contingent to the records of honour. We have been confounded with the herd of conquerours. Our dominion has been a vulgar thing. But we begin to emerge; and I hope, that a severe inspection of ourselves, a purification of our own offences, a lustration of the exorbitances of our own power is a glory reserved to this time, to this nation, and to this august tribunal.

The year 1756 is a memorable era in the history of the world—it introduced a new nation from the remotest verge of the western world, with new manners, new customs, new institutions, new opinions, new laws, into the heart of Asia.

My lords, if in that part of Asia, whose native regular government was then broken up; if, at the moment when it had fallen into darkness and confusion from having become the prey and almost the sport of the ambition of its homeborn grandees; if, in that gloomy season, a star had risen from the west, that would prognosticate a better generation, and would shed down the sweet influences of order, peace, science and security to the natives of that vexed and harassed country; we should have been covered with genuine honour. It would have been a beautiful and noble spectacle to mankind.

Indeed something might have been expected of the kind, when a new dominion emanated from a learned and enlightened part of the world in the most enlightened period of its existence. Still more might it have been expected, when that dominion was found to issue from the bosom of a free country, that it would have carried with it the full benefit of the vital principle of the British liberty and constitution, though its municipal forms were not communicable, or at least the advantage of the liberty and spirit of the British constitution. Had this been the case, (alas! it was not,) you would have been saved the trouble of this day. It might have been expected too, that in that enlightened state of the world, influenced by the best religion, and from an improved description of that best religion; I mean the Christian reformed religion; that we should have done honour to Europe, to letters, to laws, to religion; done honour to all the circumstances, of which, in this island, we boast ourselves, at the great and critical moment of that revolution.

My lords, it has happened otherwise. It is now left for us to repair our former errours. Resuming the history where I broke off yesterday by your indulgence to my weakness.—Surajah Dowla was the adopted grandson of Ally Verdy Cawn, a cruel and ferocious tyrant; the manner of whose acquisition of power I have already stated. He came too young and unexperienced to that throne of usurpation. It was a usurpation yet green in the country, and the country felt uneasy under it. It had not the advantage of that prescriptive usage, that inveterate habit, that traditionary opinion, which a long continuance of any system of government secures to it. The only real security, which Surajah Dowla's government could possess, was the security of an army. But the great aim of this prince, and his predecessor, was to supply the weakness of his government by the strength of his purse; he therefore amassed treasures by all ways and on all hands. But, as the Indian princes, in general, are as unwisely tenacious of their treasure, as they are rapacious in getting it; the more money he amassed, the more he felt the effects of poverty. The consequence was, that their armies were unpaid, and being unpaid or irregularly paid, were undisciplined, disorderly, unfaithful. In this situation, a young prince,

confiding more in the appearances, than examining into the reality of things, undertook (from motives, which the House of Commons with all their industry to discover the circumstances have found it difficult to make out) to attack a little miserable trading fort, that we had erected at Calcutta. He succeeded in that attempt, only because success in that attempt was easy. A close imprisonment of the whole settlement followed; not owing, I believe, to the direct will of the prince, but, what will always happen when the will of the prince is but too much the law, to a gross abuse of his power by his lowest servants; by which 120 or more of our countrymen perished miserably in a dungeon by a fate too tragical for me to be desirous to relate, and too well known to stand in need of it.

At the time that this event happened, there was at the same time a concurrence of other events, which, from this partial and momentary weakness, displayed the strength of Great Britain in Asia. For some years before, the French and English troops began, on the coast of Coromandel, to exhibit the power, force, and efficacy of European discipline. As we daily looked for a war with France, our settlements on that coast were in some degree armed. Lord Pigot, then governour of Madras,—Lord Pigot, the preservor, and the victim of the British dominion in Asia,—detached such of the company's force as could be collected and spared, and such of his majesty's ships as were on that station, to the assistance of Calcutta. And, to hasten this history to its conclusion,—the daring and commanding genius of Clive,—the patient and firm ability of Watson,—the treachery of Meer Jaffier,—and the battle of Plassey, gave us at once the patronage of a kingdom, and the command of all its treasures. We negotiated with Meer Jaffier for the vice-royal throne of his master. On that throne we seated him. And we obtained, on our part, immense sums of money. We obtained a million sterling for the company; upwards of a million for individuals: in the whole, a sum of about two millions two hundred and thirty thousand pounds for various purposes from the prince, whom we had set up. We obtained too the town of Calcutta, more completely than we had before possessed it, and the twenty-four districts adjoining. This was the first small seminal principle of the immense territorial acquisitions we have since made in India.

Many circumstances of this acquisition I pass by. There is a sacred veil to be drawn over the beginnings of all governments. Ours, in India, had an origin like those, which time has sanctified by obscurity. Time, in the origin of most governments, has thrown this mysterious veil over them; prudence and discretion make it necessary to throw something of the same drapery over more recent foundations; in which otherwise the fortune, the genius, the talents, and military virtue of this nation never shone more conspicuously. But, whatever necessity might hide, or excuse, or palliate in the acquisition of power, a wise nation, when it has once made a revolution upon its own principles, and for its own ends, rests there. The first step to empire is revolution, by which power is conferred; the next is good laws, good orders, good institutions, to give that power stability. I am sorry to say, that the reverse of this policy was the principle, on which the gentlemen in India acted. It was such as tended to make the new government as unstable as the old. By the vast sums of money acquired by individuals upon this occasion, by the immense sudden prodigies of fortune,—it was discovered, that a revolution in Bengal was a mine much more easily worked, and infinitely more productive, than the mines of Potosi and Mexico. It was found, that the work was not only very lucrative, but not at all difficult. Where Clive forded a deep water upon an unknown bottom, he left a bridge for his successours, over which the lame could hobble, and the blind might grope their way. There was not at that time a knot of clerks in a counting-house; there was not a captain of a band of ragged topasses, that looked for any thing less than the deposition of soubahs, and the sale of kingdoms. Accordingly, this revolution, which ought to have precluded other revolutions, unfortunately became fruitful of them; and when Lord Clive returned to Europe to enjoy his fame and fortune in his own country, there arose another description of men, who thought, that a revolution might be made upon his revolution; and as lucrative to them as his was to the first projectors. Scarcely was Meer Jaffier, Lord Clive's nabob, seated on his musnud, than they immediately, or in a short time, projected another revolution—a revolution, which was to unsettle all the former had settled—a revolution to make way for new disturbances, and new wars; and which led to that long chain of peculation, which ever since has afflicted and oppressed Bengal.

If ever there was a time, when Bengal should have had respite from internal revolutions, it was this. The governour, forced upon the natives, was now upon the throne. All the great lords of the country, both Gentûs and Mahometans, were uneasy, discontented, and

disobedient; and some absolutely in arms, and refusing to recognize the prince we had set up. An imminent invasion of the Mahrattas, an actual invasion headed by the son of the Mogul, the revenues on account of the late shock very ill collected, even where the country was in some apparent quiet, an hungry treasury at Calcutta, an empty treasury at Moorshedabad,—every thing demanded tranquillity, and with it order and œconomy. In this situation it was resolved to make a new and entirely mercenary revolution; and to set up to sale the government, secured to its present possessour by every tie of public faith, and every sacred obligation, which could bind or influence mankind. This second revolution forms that period in the Bengal history, which had the most direct influence upon all the subsequent transactions. It introduces some of the persons, who were most active in the succeeding scenes, and from that time to this has given its tone and character to the British affairs and government. It marks and specifies the origin and true principles of all the abuses, which Mr. Hastings was afterwards appointed to correct, and which the Commons charge, that he continued and aggravated—namely, the venal depositions, and venal exaltations of the country powers,—the taking of bribes and corrupt presents from all parties in those changes; the vitiating and maiming the company's records; the suppression of public correspondence; corrupt combinations and conspiracies; perfidy in negotiation established into principle;—acts of the most atrocious wickedness justified upon purity of intention; mock-trials and collusive acquittals among the parties in common guilt,—and in the end, the court of directors supporting the scandalous breach of their own orders. I shall state the particulars of this second revolution more at large.

Soon after the revolution, which had seated Meer Jaffier on the vice-royal throne, the spirit of the Mogul empire began, as it were, to make one faint struggle, before it finally expired. The then heir to that throne, escaping from the hands of those, who had held his father prisoner, had put himself at the head of several chiefs, collected under the standard of his house, and appeared in force on the frontiers of the provinces of Bengal and Bahar, upon both which he made some impression. This alarmed the new powers, the nabob Meer Jaffier, and the presidency of Calcutta; and as in a common cause, and by the terms of their mutual alliance, they took the field against him. The nabob's eldest son, and heir-apparent, commanded in chief. Major Calliaud commanded the English forces under the government of Calcutta. Mr. Holwell was in the temporary possession of the presidency. Mr. Vansittart was hourly expected to supersede him. Mr. Warren Hastings, a young gentleman about twenty-seven years of age, was resident for the company at the durbar, or court, of Meer Jaffier, our new created nabob of Bengal, allied to this country by the most solemn treaties, that can bind men; for which treaties he had paid, and was then paying, immense sums of money. Mr. Warren Hastings was the pledge in his hands for the honour of the British nation, and their fidelity to their engagements.

In this situation Mr. Holwell, whom the terrible example of the black hole at Calcutta had not cured of ambition, thought an hour was not to be lost in accomplishing a revolution, and selling the reigning nabob.

My lords, there was in the house of Meer Jaffier, in his court, and in his family, a man of an intriguing, crafty, subtle, and at the same time bold, daring, desperate, bloody and ferocious character, called Cossim Ally Cawn. He was the son-in-law of Meer Jaffier; and he made no other use of this affinity, than to find some means to dethrone and to murder him. This was the person, in whose school of politics Mr. Hastings made his first studies, and whose conduct he quotes as his example, and for whose friends, agents, and favourites, he has always shown a marked predilection. This dangerous man was not long without finding persons, who observed his talents with admiration, and who thought fit to employ him.

The council at Calcutta was divided into two departments; one, the council in general, the other, a select committee, which they had arranged for the better carrying on their political affairs. But the select committee had no power of acting wholly without the council at large, at least finally and conclusively. The select committee thought otherwise. Between these litigant parties for power I shall not determine on the merits; thinking of nothing but the use, that was made of the power, to whomsoever it belonged. This secret committee then, without communicating with the rest of the council, formed the plan for a second revolution. But the concurrence of Major Calliaud, who commanded the British troops, was essential to the purpose, as it could not be accomplished without force. Mr. Hasting's assistance was necessary, as it could not be accomplished without treachery.

These are the parties concerned in the in-

tended revolution. Mr. Holwell, who considered himself in possession only of temporary power, was urged to precipitate the business; for, if Mr. Vansittart should arrive before his plot could be finally put into execution, he would have all the leading advantages of it, and Mr. Holwell would be considered only as a secondary instrument. But whilst Mr. Holwell, who originally conceived this plot, urged forward the execution of it, in order that the chief share of the profits might fall to him, the Major, and possibly the resident, held back, till they might receive the sanction of the permanent governour, who was hourly expected, with whom one of them was connected, and who was to carry with him the whole weight of the authority of this kingdom. This difference produced discussions. Holwell endeavoured by his correspondence to stimulate Calliaud to this enterprise, which, without him, could not be undertaken at all. But Major Calliaud had different views. He concurred inwardly, as he tells us himself, in all the principles of this intended revolution, in the propriety and necessity of it. He only wished delay. But he gave such powerful, solid, and satisfactory reasons, not against the delay, but the very merits of the design itself, exposing the injustice, and the danger of it, and the impossibility of mending by it their condition in any respect, as must have damned it in the mind of all rational men. At least it ought to have damned it for ever in his own. But you will see, that Holwell persevered in his plan; and that Major Calliaud thought two things necessary: first, not wholly to destroy the scheme, which he tells us he always approved; but to postpone the execution; and, in the mean time, to delude the nabob by the most strong, direct, and sanguine assurances of friendship and protection, that it was possible to give to man.

Whilst the projected revolution stood suspended; whilst Mr. Holwell urged it forward, and Mr. Vansittart was expected every day to give it effect; whilst Major Calliaud with this design of ruining the nabob lodged in his breast, suspended in execution, and condemned in principle, kept the fairest face, and the most confidential interviews with that unfortunate prince and his son—as the operations of the campaign relaxed, the army drew near to Moorshedabad the capital—when a truly extraordinary scene happened, such I am sure the English annals before that time had furnished no example of, nor will I trust in future. I shall state it as one piece from beginning to end—reserving the events, which intervened; because, as I do not produce any part of this series for the gratification of historical curiosity, the contexture is necessary to demonstrate to your lordships the spirit of our Bengal politics, and the necessity of some other sort of judicial inquires than those, which that government institute for themselves. The transaction so manifestly marks the character of the whole proceeding, that I hope I shall not be blamed for suspending for a moment the narrative of the steps taken towards the revolution, that you may see the whole of this episode together; that by it you may judge of the causes, which led progressively to the state, in which the company's affairs stood, when Mr. Hastings was sent for the express purpose of reforming it.

The business I am going to enter into is commonly known by the name of the story of the three seals: it is to be found in the appendix, No. 10, to the first report of the state and condition of the East-India Company, made in 1773. The word report, my lords, is sometimes a little equivocal; and may signify sometimes, not what is made known, but what remains in obscurity; the detail and evidence of many facts, referred to in the report, being usually thrown into the appendix. Many people, and I among the rest, (I take shame to myself for it,) may not have fully examined that appendix. I was not a member of either of the India committees of 1773. It is not, indeed, till within this year, that I have been thoroughly acquainted with that memorable history of the three seals.

The history is this: in the year 1760, the allies were in the course of operations against the son of the Mogul, now the present Mogul, who, as I have already stated, had made an irruption into the kingdom of Bahar, in order to reduce the lower provinces to his obedience. The parties opposing him were the nabob of Bengal, and the company's troops under Major Calliaud. It was whilst they faced the common enemy as one body, this negotiation for the destruction of the nabob of Bengal by his faithful allies of the company was going on with diligence. At that time, the nabob's son, Meeran, a youth in the flower of his age, bold, vigorous, active; full of the politics, in which those, who are versed in usurpation, are never wanting; commanded the army under his father; but was, in reality, the efficient person in all things. About the fifteenth of April 1760, as I have it from Major Calliaud's letter of that date, the nabob came into his tent; and, with looks of the utmost embarrassment, big with some design, which swelled his bosom, some-

thing, that was too large and burdensome to conceal, and yet too critical to be told, appeared to be in a state of great distraction. The Major, seeing him in this condition, kindly, gently, like a fast and sure friend, employed (to use his own expression) *some of those assurances, that tend to make men fully open their hearts*; and accordingly, fortified by his assurances, and willing to disburden himself of the secret, that oppressed him, he opens his heart to the commanding officer of his new friends, allies, and protectors. The nabob, thus assured, did open himself, and informed Major Calliaud, that he had just received a message from the prince, or his principal minister, informing him, that the Prince Royal, now the Mogul, had an intention (as indeed he rationally might, supposing, that we were as well disposed to him as we showed ourselves afterwards) to surrender himself into the hands of him, the nabob; but at the same time wished, as a guarantee, that the commander-in-chief of the English forces should give him security for his life and his honour, when he should in that manner surrender himself to the nabob. I do not mean, my lords, by surrendering, that it was supposed he intended to surrender himself prisoner of war; but as a sovereign, dubious of the fidelity of those about him, would put himself into the hands of his faithful subjects, of those, who claimed to derive all their power, as both we and the nabob did, under his authority. The nabob stated to the English general, that, without this English security, the prince would not deliver himself into his hands. Here he confessed he found a difficulty. For the giving this faith, if it were kept, would defeat his ultimate view, which was, when the prince had delivered himself into his hands, in plain terms to murder him. This grand act could not be accomplished without the English general. In the first place, the prince, without the English security, would not deliver himself into the nabob's hands; and afterwards, without the English concurrence, he could not be murdered. These were difficulties, that pressed upon the mind of the nabob.

The English commander heard this astonishing proposition without any apparent emotion. Being a man habituated to great affairs, versed in revolutions, and with a mind fortified against extraordinary events, he heard it, and answered it without showing any signs of abhorrence or detestation; at the same time with a protestation, that he would indeed serve him, the nabob, but it should be upon such terms as honour and justice could support; informing him, that an assurance for the prince's safety, could not be given by him, until he had consulted Mr. Holwell, who was governour, and his superiour. This conversation passed in the morning. On that very morning, and whilst the transaction was hot, Major Calliaud writes to Mr. Holwell an account of it. In his letter he informs him, that he made an inquiry, without stating from whom, but that he did inquire the probability of the nabob's getting possession of the prince from some persons, who assured him, that there was no probability of the prince's intention to deliver himself to the nabob on any terms. Be that as it may, it is impossible not to remark, that the whole transaction of the morning of the 15th of April was not very discouraging to the nabob; not such as would induce him to consider this most detestable of all projects as a thing utterly unfeasible, and as such to abandon it. The evening came on without any thing to alter his opinion. Major Calliaud that evening came to the nabob's tent to arrange some matters relative to the approaching campaign. The business soon ended with regard to the campaign; but the proposal of the morning to Major Calliaud, as might be expected to happen, was in effect renewed. Indeed the form was a little different; but the substantial part remained the same. Your lordships will see what these alterations were.

In the evening scene the persons were more numerous. On the part of the company, Major Calliaud, Mr. Lushington, Mr. Knox, and the ambassadour at the nabob's court, Mr. Warren Hastings. On the part of the Moorish government, the nabob himself, his son Meeran, a Persian secretary, and the nabob's head spy, an officer well known in that part of the world, and of some rank. These were the persons of the drama in the evening scene. The nabob and his son did not wait for the prince's committing himself to their faith, which, it seems, Major Calliaud did not think likely to happen: so that one act of treachery is saved; but another opened of as extraordinary a nature. Intent and eager on the execution, and the more certain, of their design, they accepted the plan of a wicked wretch, principal servant of the then prime minister to the Mogul, or themselves suggested it to him. A person called conery, dewan or principal steward to Camgar Khân, a great chief in the service of the shâh zadda or prince, (now the Great Mogul, the sovereign, under whom the company holds their charter,) had, it seems, made a proposal to the nabob, that, if a considerable territory, then held by his master, was

assured to him, and a reward of a lack of rupees, ten or twelve thousand pounds, secured to him, he would for that consideration, deliver the prince, the eldest son of the Mogul, alive into the hands of the nabob; or, if that could not be effected, he engaged to murder him for the same reward. But as the assassin could not rely on the nabob and his son for his reward for this meritorious action, and thought better of English honour and fidelity in such delicate cases, he required, that Major Calliaud should set his seal to the agreement. This proposition was made to an English commander; what discourse happened upon it is uncertain. Mr. Hastings is stated by some evidence to have acted as interpreter in this memorable congress. But Major Calliaud agreed to it without any difficulty. Accordingly an instrument was drawn, an indenture tripartite prepared by the Persian secretary, securing to the party the reward of this infamous, perfidious, murderous act. First, the nabob put his own seal to the murder. The nabob's son, Meeran, affixed *his* seal. A third seal, the most important of all, was yet wanting. A pause ensued; Major Calliaud's seal was not at hand; but Mr. Lushington was sent near half a mile to bring it. It was brought at length; and the instrument of blood and treachery was completely executed. Three seals were set to it.

This business of the three seals, by some means not quite fully explained, (as suspected by the parties,) by means of the information of Mr Holwell, who soon after came home, was conveyed to the ears of the court of directors. The court of directors wrote out, under date of the 7th of October 1761, within a little more than a year after this extraordinary transaction, to this effect:—that, in conjunction with the nabob, Major Calliaud had signed a paper, offering a reward of a lack of rupees, or some such sum, to several black persons for the assassination of the shâh zadda, or prince heir apparent; which paper was offered to the then chief of Patna, to sign; but which he refused on account of the infamy of the measure. As it appeared in the same light to them, the directors, they ordered a strict inquiry into it. The India company, who here did their duty with apparent manliness and vigour, were resolved, however, to do it with gentleness, and to proceed in a manner, that could not produce any serious mischief to the parties charged; for they directed the commission of inquiry to the very clan and set of people, who, from a participation in their common offences, stood in awe of one another; in effect, to the parties in the transaction. Without a prosecutor, without an impartial director of the inquiry, they left it substantially to those persons to try one another for their common acts. Here I come upon the principle, which I wish most strongly to mark to your lordships; I mean collusive trials, and collusive acquittals. When this matter came to be examined, according to the orders of the court, which was on the 4th of October 1762, the council consisted of Peter Maguire, Warren Hastings, and Hugh Watts. Mr. Hastings had by this time accomplished the business of resident with the nabob, and had taken his seat, to which his seniority entitled him, in council. Here a difficulty arose *in limine*. Mr. Hastings was represented to have acted as interpreter in this business; he was therefore himself an object of the inquisition; he was doubtful as evidence; he was disqualified as a judge. It likewise appeared, that there might be some objection to others, whose evidence was wanting, but who were themselves concerned in the guilt. Mr. Lushington's evidence would be useful, but there were two circumstances rather unlucky. First, he had put the seal to the instrument of murder; and secondly, and what was most material, he had made an affidavit at Patna, whilst the affair was green and recent, that he had done so; and in the same affidavit had deposed; that Warren Hastings was interpreter in that transaction. Here were difficulties both on him and Mr. Hastings. The question was, how to get Mr. Hastings, the interpreter, out of his interpretation, and to put him upon the seat of judgment. It was effected, however, and the manner, in which it was effected, was something curious. Mr. Lushington, who by this time was got completely over, himself tells you, that in conferences with Major Calliaud, and by arguments and reasons by him delivered, he was persuaded to unsay his swearing, and to declare, that he believed, that the affidavit, which he made at Patna, and while the transaction was recent, or nearly recent, must be a mistake; that he *believed* (what is amazing indeed for any belief) that not Mr. Hastings, but he himself, interpreted. Mr. Lushington completely loses his own memory, and he accepts an offered, a given memory, a memory supplied to him by a party in the transaction. By this operation all difficulties are removed; Mr. Hastings is at once put into the capacity of a judge. He is declared by Mr. Lushington not to have been an interpreter in the transaction. After this, Mr. Hastings is himself examined. Your lordships will look at

the transaction at your leisure, and I think you will consider it as a pattern for inquiries of this kind. Mr. Hastings is examined: he does not recollect. His memory also fails on a business, in which it is not easy to suppose a man could be doubtful whether he was present or not: he thinks he was not there; for that, if he had been there and acted as interpreter, he could not have forgot it.

I think it is pretty nearly as I state it; if I have fallen into any errour or inaccuracy it is easily rectified; for here is the state of the transaction given by the parties themselves. On this inaccurate memory of Mr. Hastings, not venturing, however, to say positively, that he was not the interpreter, or that he was not present, he is discharged from being an accomplice; he is removed from the bar, and leaps upon the seat of justice. The court thus completed, Major Calliaud comes manfully forward to make his defence. Mr. Lushington is taken off his back in the manner we have seen, and no one person remains but Captain Knox. Now, if Captain Knox was there and assenting, he is an accomplice too. Captain Knox asserts, that, at the consultation about the murder, he said, it was a pity to cut off so fine a young fellow in such a manner, meaning that fine young fellow the prince, the descendant of Tamerlane, the present reigning Mogul, from whom the company derive their present charter. The purpose to be served by this declaration, if it had any purpose, was, that Captain Knox did not assent to the murder, and that therefore his evidence might be valid.

The defence set up by Major Calliaud was to this effect. He was apprehensive, he said, that the nabob was alarmed at the violent designs, that were formed against him by Mr. Holwell; and that therefore to quiet his mind (to quiet it by a proposition compounded of murder and treason, an odd kind of mind he had, that was to be quieted by such means!) but to quiet his mind, and to show, that the English were willing to go all lengths with him, to sell body and soul to him, he did put his seal to this extraordinary agreement, he put his seal to this wonderful paper. He likewise stated, that he was of opinion at the time, that nothing at all sinister could happen from it, that no such murder was likely to take place, whatever might be the intention of the parties. In fact, he had very luckily said, in a letter of his written a day after the setting the seal, "I think nothing will come of this matter, but it is no harm to try." This experimental treachery, and these essays of conditional murder, appeared to him good enough to make a trial of; but at the same time he was afraid nothing would come of it. In general, the whole gest of his defence comes to one point, in which he persists,—that, whatever the act might be, his mind is clear—"my hands are guilty, but my heart is free." He conceived, that it would be very improper, undoubtedly, to do such an act, if he suspected any thing could happen from it; he, however, let the thing out of his own hands; he put it into the hands of others; he put the commission into the hands of a murderer. The fact was not denied—it was fully before these severe judges. The extenuation was the purity of his heart, and the bad situation of the company's affairs, (the perpetual plea, which your lordships will hear of for ever, and which if it will justify evil actions, they will take good care, that the most nefarious of their deeds shall never want a sufficient justification.) But then he calls upon his life and his character to oppose to his seal; and though he has declared, that Mr. Holwell had intended ill to the nabob, and that he approved of those measures, and only postponed them, yet he thought it necessary, he says, to quiet the fears of the nabob; and from this motive he did an act abhorrent to his nature, and which, he says, he expressed his abhorrence of the morning after he signed it: not that he did so; but if he had, I believe it would only have made the thing so many degrees worse. Your lordships will observe, that in this conference, as stated by himself, these reasons and apologies for it did not appear, nor did they appear in the letter, nor any where else, till next year when he came upon his trial. Then it was immediately recollected, that Mr. Holwell's designs were so wicked, they certainly must be known to the nabob, though he never mentioned them in the conference of the morning or the evening of the 15th; yet such was now the weight and prevalence of them upon the Major's mind, that he calls upon Mr. Hastings to know whether the nabob was not informed of these designs of Mr. Holwell against him. Mr. Hastings's memory was not quite correct upon the occasion. He does not recollect any thing of the matter. He certainly seems not to think, that he ever mentioned it to the nabob, or the nabob to him; but he does recollect, he thinks, speaking something to some of the nabob's attendants upon it, and further this deponent sayeth not. On this state of things, namely, the purity of intention, the necessities of the company, the propriety of keeping the nabob in perfect good humour and removing suspicions from his

mind, which suspicions he had never expressed, they came to the resolution, I shall have the honour to read to you: "that the representation, given in the said defence, of the state of the affairs of the country at that time (that is, about the month of April 1760) is true and just, [that is, the bad state of the country, which we shall consider hereafter;] that, in such circumstances, the nabob's urgent account of his own distresses, the colonel's desire of making him easy, [for here is a recapitulation of the whole defence,] as the first thing necessary for the good of the service, and the suddenness of the thing proposed, might deprive him for a moment of his recollection, and surprise him into a measure, which, as to the measure itself, he could not approve. That such only were the motives, which did or could influence Colonel Calliaud to assent to the proposal, is fully evinced by the deposition of Captain Knox and Mr. Lushington, that his (*Calliaud's*) *conscience, at the time, never reproached him with a bad design.*"

Your lordships have heard of the testimony of a person to his own conscience; but the testimony of another man to any one's conscience—this is the first time, I believe, it ever appeared in a judicial proceeding. It is natural to say, "my conscience acquits me of it;" but *they* declare, that "*his* conscience never reproached him with a bad design, and therefore, upon the whole, they are satisfied, that his intention was good, though he erred in the measure."

I beg leave to state one thing, that escaped me, that the nabob, who was one of the parties to the design, was, at the time of the inquiry, a sort of prisoner or an exile at Calcutta; that his moonshee was there, or might have been had; and that his spy was likewise there; and that they, though parties to this transaction, were never called to account for it in any sense or in any degree, or to show how far it was *necessary* to quiet the nabob's mind.

The accomplices by acquitting him upon *their* testimony to his *conscience* did their business nobly. But the good court of directors, who were so easily satisfied, so ready to condemn at the first proposition, and so ready afterwards to acquit, put the last finishing hand of a master to it. For the accomplices acquit him of evil intentions, and excuse his act. The court of directors disapproving indeed the measure, but receiving the testimony of his conscience in justification of his conduct, and taking up the whole ground, honourably acquit him, and commend this action as an instance of heroic zeal in their service.

The great end and purpose, for which I produce this to your lordships, is to shew you the necessity there is for other inquiries, other trials, other acquittals of parties than those made by a collusive clan abroad, or by the directors at home, who had required the parties to inquire of themselves, and to take the testimony of the judges at secondhand, as to the conscience of the party accused, respecting acts, which neither they nor any man living can look upon but with horrour.

I have troubled your lordships with the story of the three seals, as a specimen of the then state of the service, and the politics of the servants, civil and military, in the horrid abuses, which then prevailed, and which render at length the most rigorous reformation necessary.

I close this episode to resume the proceedings at the second revolution. This affair of the three seals was, we have seen, to quiet the fears of the nabob. His fears it was, indeed, necessary to quiet; for your lordships will see, that the man, whose fears were to be set asleep by Major Calliaud's offering him, in a scheme for murdering his sovereign, an odd sort of opiate, made up of blood and treason, was now in a fair way of being murdered himself by the machinations of him, whose seal was set to his murderous security of peace, and by those his accomplices, Holwell and Hastings; at least they resolved to put him in a situation, in which his murder was in a manner inevitable, as you will see in the sequel of the transactions. Now the plan proceeds. The parties continued in the camp; but there was another *remora*. To remove a nabob, and to create a revolution, is not easy; houses are strong, who have sons grown up with vigour and fitness for the command of armies. They are not easily overturned by removing the principal, unless the secondary is got rid of: and if this *remora* could be removed, every thing was going on in a happy way in the business. This plan, which now (that is, about the month of July) began to get into great ripeness and forwardness, Mr. Holwell urged forward, Mr. Vansittart being hourly expected.

I do not know whether I am going to state a thing, though it is upon the records, which will not have too theatrical an appearance for the grave state, in which we are. But here it is—the difficulty, the knot, and the solution, as recorded by the parties themselves. It was the object of this bold, desperate, designing man, Cossim Ally Cawn, who aimed at every thing, and who scrupled not to do any thing in attaining what he aimed at, to be appointed the lieutenant of the nabob Jaffier Ally, and

thus to get possession of his office during his lifetime under that name, with a design of murdering him; for that office, according to many usages of that country, totally supersedes the authority of the first magistrate, renders him a cypher in his hand, gives the administration of his affairs and command of his troops to the lieutenant. It was a part of his plan, that he was, after his appointment to the lieutenancy, to be named to the succession of the nabob, who had several other children; but the eldest son stood in the way.

But as things hastened to a crisis, this difficulty was removed in the most extraordinary and providential unheard of manner, by the most extraordinary event, that, I believe, is recorded in history. Just in the nick of time, in the moment of projection, on the 3d of July, this prince Meeran, in the flower of his age, bold, active, enterprising, lying asleep in his tent, is suddenly, without any one's knowing it, without any alarm or menace in the heavens, that ever was heard of or mentioned, without any one whatever being hurt or even alarmed in the camp, killed with a flash of lightning. My lords, thus was the Gordian knot cut. This prince dies of a flash of lightning, and Mr. Lushington (of whom you have heard) comes in the morning with his hair standing erect, comes frightened into the presence of Major Calliaud, and, with the utmost alarm, tells him of a circumstance, that was afterwards to give them so much pleasure. The alarm was immediately communicated to the Major, who was seized with a fright; and fearing lest the army should mutiny upon the death of their chief, it was contrived in a manner, that I believe was most difficult to contrive, that what might have excited a general mutiny was concealed by the ability, the good conduct, and dexterity of Major Calliaud for seven days together, till he led the army out of the place of danger. Thus a judgment fell upon one of the (innocent) murderers in the scene of the three seals. This man, who was probably guilty in his conscience as well as in act, thus fell by that most lucky, providential, and most useful flash of lightning.

There were at that time, it seems, in Calcutta a wicked sceptical set of people, who somehow or other believed, that *human* agency was concerned in this electric flash, which came so very opportunely, and which was a favour so thankfully acknowledged. These wicked, ill-natured sceptics disseminated reports (which I am sure I do not mean to charge or prove, leaving the effect of them to you) very dishonourable, I believe, to Cossim Ally Cawn in the business, and to some Englishmen, who were concerned.

The difficulty of getting rid of Meeran being thus removed, Mr. Vansittart comes upon the scene. I verily believe he was a man of good intentions, and rather debauched by that amazing flood of iniquity, which prevailed at that time, or hurried and carried away with it. In a few days he sent for Major Calliaud. All his objections vanish in an *instant*; like that flash of lightning, every thing is *instant*. The Major agrees to perform his part. They send for Cossim Ally Cawn and Mr. Hastings, they open a treaty and conclude it with him, leaving the management of it to two persons, Mr. Holwell and another person, whom we have heard of, an Armenian, called Coja Petruse, who afterwards played his part in another illustrious scene. By this Petruse and Mr. Holwell the matter is settled. The moment Mr. Holwell is raised to be a secretary of state, the revolution is accomplished. By it Cossim Ally Cawn is to have the lieutenancy at present, and the succession. Every thing is put into his hands, and he is to make for it large concessions, which you will hear of afterwards, to the company. Cossim Ally Cawn proposed to Mr. Holwell, what would have been no bad supplement to the flash of lightning, the murder of the nabob; but Mr. Holwell was a man of too much honour and conscience to suffer that. He instantly flew out at it, and declared the whole business should stop, unless the affair of the murder was given up. Accordingly, things were so settled. But, if he gave the nabob over to an intending murderer, and delivered his person, treasure, and every thing into his hands, Cossim Ally Cawn might have had no great reason to complain of being left to the execution of his own projects in his own way. The treaty was made, and amounted to this, that the company was to receive three great provinces; for here, as we proceed, you will have an opportunity of observing, with the progress of these plots, one thing, which has constantly and uniformly pervaded the whole of these projects, and which the persons concerned in them have avowed as a principle of their actions—that they were first to take care of the company's interest, then of their own; that is, first secure to the company an enormous bribe, and under the shadow of that bribe to take all the little emoluments they could to themselves. Three great rich southern provinces, maritime, or nearly maritime, Burdwan, Midnapore, and Chittagong, were to be dissevered from the soubah and to be ceded to the company.

There were other minor stipulations, which it is not necessary at present to trouble you with, signed, sealed, and executed at Calcutta between these parties with the greatest possible secrecy. The lieutenancy and the succession were secured to Cossim Ally, and he was likewise to give somewhere about the sum of £.200,000 to the gentlemen, who were concerned, as a reward for serving him so effectually, and for serving their country so well. Accordingly, these stipulations, actual or understood (for they were eventually carried into effect) being settled, a commission of delegation consisting chiefly of Mr. Vansittart and Major Calliaud, was sent up to Moorshedabad; the new governour taking this opportunity of paying the usual visit of respect to the nabob, and in a manner, which a new governour coming into place would do, with the detail of which it is not necessary to trouble you. Mr. Hastings was at this time at the durbar; and having every thing prepared, and the ground smoothed, they first endeavoured to persuade the nabob to deliver over the power negotiated for into the hands of their friend Cossim Ally Cawn. But when the old man, frightened out of his wits, asked, "What is it he has bid for me?" and added, "I will give half as much again to save myself; pray let me know what my price is;" he entreated in vain. They were true, firm, and faithful to their word and their engagement. When he saw they were resolved, that he should be delivered into the hands of Cossim Ally Cawn, he at once surrenders the whole to him. They instantly grasp it. He throws himself into a boat, and will not remain at home an hour, but hurries down to Calcutta to leave his blood at our door, if we should have a mind to take it. But the life of the nabob was too great a stake, partly as a security for the good behaviour of Cossim Ally Cawn, and still more for the future use, that might be made of him, to be thrown away, or left in the hands of a man, who would certainly murder him, and who was very angry at being refused the murder of his father-in-law. The price of this second revolution was, according to their shares in it, (I believe I have it here,) somewhere about £.200,000. This little effusion to private interest settled the matter, and here ended the second revolution in the country; effected indeed without bloodshed, but with infinite treachery, with infinite mischief, consequent to the dismemberment of the country, and which had nearly become fatal to our concerns there, like every thing else in which Mr. Hastings had any share.

This prince, Cossim Ally Cawn, the friend of Mr. Hastings, knew, that those, who could give, could take away, dominion. He had scarcely got upon the throne, procured for him by our public spirit and his own iniquities, than he began directly and instantly to fortify himself and to bend all his politics against those, who were or could be the donors of such fatal gifts. He began with the natives, who were in their interest, and cruelly put to death, under the eye of Mr. Hastings and his clan, all those, who by their monied wealth, or landed consideration, could give any effect to their dispositions in favour of those ambitious strangers. He removed from Moorshedabad higher up into the country, to Monghir, in order to be more out of our view. He kept his word pretty well, but not altogether faithfully, with the gentlemen; and though he had no money, for his treasury was empty, he gave obligations, which are known by the name of *Jeeps*—(the Indian vocabulary will by degrees become familiar to your lordships, as we develope the modes and customs of the country.) As soon as he had done this, he began to rack and tear the provinces, that were left to him, to get as much from them as should compensate him for the revenues of those great provinces he had lost; and accordingly he began a scene of extortion, horrible, nefarious, without precedent or example, upon almost all the landed interest of that country. I mention this, because he is one of those persons, whose governments Mr. Hastings, in a paper, called his defence, delivered in to the House of Commons, has produced as precedents and examples, which he has thought fit to follow, and which he thought would justify him in the conduct he has pursued. This Cossim Ally Cawn, after he had acted the tyrant on the landed interest, fell upon the monied interest. In that country there was a person called Juggut Seit. There were several of the family, who were bankers to such a magnitude as was never heard of in the world. Receivers of the public revenue, their correspondence extended all over Asia; and there are those, who are of opinion, that the house of Juggut Seit, including all its branches, was not worth less than six or seven millions sterling. This house became the prey of Cossim Ally Cawn; but Mr. Holwell had predicted, that it *should be delivered over to Satan to be buffeted*, (his own pious expression.) He predicted the misfortunes, that should befal them; and we chose a Satan to buffet them, and who did so buffet them by the murder of the principal persons of the house, and by robbing them of great sums

of their wealth, that I believe such a scene of nefarious tyranny, destroying and cutting up the root of public credit in that country, was scarce ever known. In the mean time Cossim was extending his tyranny over all, who were obnoxious to him; and the persons he first sought were those traitors, who had been friends to the English. Several of the principal of these he murdered. There was in the province of Bahar a man named Ramarain; he had got the most positive assurances of English faith; but Mr. Macguire, a member of the council, on the receipt of 5,000 gold mohors, or something more than £.8,000 sterling, delivered him up to be first imprisoned, then tortured, then robbed in consequence of the torture, and finally murdered by Cossim Ally Cawn. In this way Cossim Ally Cawn acted, while our government looked on. I hardly choose to mention to you the fate of a certain native in consequence of a dispute with Mr. Mott, a friend of Mr. Hastings, which is in the company's records—records, which are almost buried by their own magnitude from the knowledge of this country. In a contest with this native for his house and property, some scuffle having happened between the parties, the one attempting to seize and the other to defend, the latter made a complaint to the nabob, who was in an entire subjection at that time to the English; and who ordered this unfortunate man, on account of this very scuffle arising from defending his property, to be blown off from the mouth of a cannon. In short, I am not able to tell your lordships of all the nefarious transactions of this man, whom the intrigues of Mr. Holwell and Mr. Hastings had set upon the throne of Bengal. But there is a circumstance in this business, that comes across here, and will tend to show another grievance, that vexed that country, which vexed it long, and is one of the causes of its chief disasters, and which, I fear, is not so perfectly extirpated but that some part of its roots may remain in the ground at this moment.

Commerce, which enriches every other country in the world, was bringing Bengal to total ruin. The company, in former times, when it had no sovereignty or power in the country, had large privileges under their dustuck or permit; their goods passed without paying duties through the country. The servants of the company made use of this dustuck for their own private trade, which, while it was used with moderation, the native government winked at in some degree; but, when it got wholly into private hands, it was more like robbery than trade. These traders appeared every where, they sold at their own prices, and forced the people to sell to them at their own prices also. It appeared more like an army going to pillage the people, under pretence of commerce, than any thing else. In vain the people claimed the protection of their own country courts. This English army of traders, in their march, ravaged worse than a Tartarian conqueror. The trade they carried on, and which more resembled robbery than commerce, anticipated the resources of the tyrant, and threatened to leave him no materials for imposition or confiscation. Thus this miserable country was torn to pieces by the horrible rapaciousness of a double tyranny. This appeared to be so strong a case, that a deputation was sent to him at his new capital Monghir, to form a treaty for the purpose of giving some relief against this cruel, cursed, and oppressive trade, which was worse even than the tyranny of the sovereign. This trade Mr. Vansittart, the president about this time, that is in 1763, who succeeded to Mr. Holwell, and was in close union of interests with the tyrant Cossim Ally Cawn, by a treaty known by the name of the treaty of Monghir, agreed very much to suppress and to confine within something like reasonable bounds. There never was a doubt on the face of that treaty, that it was a just, proper, fair transaction. But as nobody in Bengal did then believe, that rapine was ever foreborn, but in favour of bribery, the persons, who lost every advantage by the treaty of Monghir, when they thought they saw corrupt negotiation carrying away the prizes of unlawful commerce, and were likely to see their trade crippled by Cossim Ally Cawn, fell into a most violent fury at this treaty; and as the treaty was made without the concurrence of the rest of the council, the company's servants grew divided, one part were the advocates of the treaty, the other of the trade. The latter were universally of opinion, that the treaty was bought for a great sum of money. The evidence we have on our records of the sums of money, that are stated to have been paid on this occasion, has never been investigated to the bottom. But we have it on record, that a great sum (£.70,000) was paid to persons concerned in that negotiation. The rest were exceedingly wroth to see themselves not profiting by the negotiation, and losing the trade, or likely to be excluded from it; and they were the more so, because, as we have it upon our journals, during all that time the trade of the negotiators was not proscribed, but a perwannah was issued by Cossim Ally Cawn, that the trade of

his friends, Mr. Vansittart and Mr. Hastings, should not be subject to the general regulations. This filled the whole settlement with ill blood; but in the regulation itself (I put the motive and the secret history out of the case) undoubtedly Mr. Hastings and Mr. Vansittart were on the right side. They had shown to a demonstration the mischief of this trade. However, as the other party was strong, and did not readily let go their hold of this great advantage, first, dissentions, murmurs, various kinds of complaints and ill blood arose. Cossim Ally was driven to the wall; and, having at the same time made what he thought good preparations, a war broke out at last. And how did it break out? This Cossim Ally Cawn signalized his first acts of hostility by an atrocity committed against the faith of treaties, against the rules of war, against every principle of honour. This intended murderer of his father-in-law, whom Mr. Hastings had assisted to raise to the throne of Bengal, well knowing his character and his disposition, and well knowing what such a man was capable of doing, this man massacred the English wherever he met them. There were two hundred or thereabouts of the company's servants, or their dependants, slaughtered at Patna with every circumstance of the most abominable cruelty. Their limbs were cut to pieces. The tyrant, whom Mr. Hastings set up, cut and hacked the limbs of British subjects in the most cruel and perfidious manner; threw them into wells, and polluted the waters of the country with British blood. Immediately war is declared against him in form. That war sets the whole country in a blaze; and then other parties begin to appear upon the scene, whose transactions you will find yourselves deeply concerned in hereafter.

As soon as war was declared against Cossim, it was necessary to resolve to put up another nabob, and to have another revolution; and where do they resort but to the man, whom, for his alleged tyranny, for his incapacity, for the numberless iniquities he was said to have committed, and for his total unfitness and disinclination to all the duties of government, they had dethroned. This very man they take up again to place on the throne, from which they had about two years before removed him, and for the effecting of which they had committed so many iniquities. Even this revolution was not made without being paid for. According to the usual order of procession, in which the youngest walk first—First comes the company; and the company had secured to it in perpetuity those provinces which Cossim Ally Cawn had ceded, as it was thought, rather in the way of mortgage than any thing else. Then, under the name of compensation for sufferings to the people concerned in the trade, and in the name of donation to an army and a navy, which had little to do in this affair, they tax him, what sum do you think? They tax that empty and undone treasury of that miserable and undone country, £.500,000 for a private emolument to themselves; for the compenstaion for this iniquitious trade; for the compensation for abuses, of which he was neither the author nor the abettor; they tax this miserable prince, £.500,000. That sum was given to individuals. Now comes the company at home, which, on hearing this news, was all inflamed. The directors were on fire. They were shocked at it, and particularly at this donation to the army and navy. They resolved they would give it no countenance and support. In the mean time the gentlemen did not trouble their heads upon that subject, but meant to exact and get their £.500,000 as they could.

Here was a third revolution bought at this amazing sum, and this poor miserable prince first dragged from Moorshedabad to Calcutta, then dragged back from Calcutta to Moorshedabad, the sport of fortune, and the plaything of avarice. This poor man is again set up, but is left with no authority; his troops limited, his person—every thing about him in a manner subjugated, a British resident the master of his court: he is set up as a pageant on this throne, with no other authority but what would be sufficient to give a countenance to presents, gifts, and donations. That authority was always left, when all the rest was taken away. One would have thought, that this revolution might have satisfied these gentlemen, and that the money gained by it would have been sufficient. No. The partisans of Cossim Ally wanted another revolution. The partisans of the other side wished to have something more done in the present. They now began to think, that to depose Cossim instantly, and to sell him to another, was too much at one time; especially as Cossim Ally was a man of vigour and resolution, carrying on a fierce war against them. But what do you think they did? They began to see, from the example of Cossim Ally, that the lieutenancy, the ministry of the king, was a good thing to be sold, and the sale of that might turn out as good a thing as the sale of the prince. For this office there were two rival candidates, persons of great consideration in Bengal; one, a principal

Mahomedan called Mahomed Reza Cawn, a man of high authority,—great piety in his own religion,—great learning in the law,—of the very first class of Mahomedan nobility: but at the same time, on all these accounts, he was abhorred and dreaded by the nabob, who necessarily feared, that a man of Mahomed Reza Cawn's description would be considered as better entitled and fitter for his seat, as nabob of the provinces.

To balance him, there was another man, known by the name of the great—Rajah Nundcomar: this man was accounted the highest of his cast, and held the same rank among the Gentûs, that Mahomed Reza Cawn obtained among the Mahomedans. The prince on the throne had no jealousy of Nundcomar, because he knew, that, as a Gentû, he could not aspire to the office of soubahdar. For that reason he was firmly attached to him; he might depend completely on his services; he was *his* against Mahomed Reza Cawn, and against the whole world. There was, however, a flaw in the nabob's title, which it was necessary should be hid. And perhaps it lay against Mahomed Reza Cawn as well as him. But it was a source of apprehension to the nabob, and contributed to make him wish to keep all Mahomedan influence at a distance. For he was a syed, that is to say, a descendant of Mahomed, and as such, though of the only acknowledged nobility among Mussulmen, would be by that circumstance excluded by the known laws of the Mogul empire from being soubahdar in any of the Mogul provinces, in case the revival of the constitution of that empire should ever again take place.

An auction was now opened before the English council at Calcutta. Mahomed Reza Cawn bid largely; Nundcomar bid largely. The circumstances of these two rivals at the nabob's court were equally favourable to the pretensions of each. But the preponderating merits of Mahomed Reza Cawn, arising from the subjection, in which he was likely to keep the nabob, and make him fitter for the purpose of continued exactions, induced the council to to take his money, which amounted to about £220,000. Be the sum paid what it may, it was certainly a large one. In consequence of which the council attempted to invest Mahomed Reza Cawn with the office of naib soubah or deputy viceroy. As to Nundcomar, they fell upon him with a vengeful fury: he fought his battle as well as he could; he opposed bribe to bribe, eagle to eagle; but at length he was driven to the wall. Some received his money, but did him no service in return: others, more conscientious, refused to receive it: and in this battle of bribes he was vanquished. A deputation was sent from Calcutta to the miserable nabob, to tear Nundcomar, his only support, from his side; and to put the object of all his terrours, Mahomed Reza Cawn, in his place.

Thus began a new division, that split the presidency into violent factions; but the faction, which adhered to Nundcomar, was undoubtedly the weakest. That most miserable of men, Meer Jaffier Ally Cawn, clinging, as to the last pillar, to Nundcomar, trembling at Mahomed Reza Cawn, died in the struggle, a miserable victim to all the revolutions, to all the successive changes and versatile politics at Calcutta. Like all the rest of the great personages, whom we have degraded and brutalized by insult and oppression, he betook himself to the usual destructive resources of unprincipled misery—sensuality, opium, and wine. His gigantic frame of constitution soon gave way under the oppression of this relief, and he died, leaving children and grand-children by wives and concubines. On the old nabob's death Mahomed Reza Cawn was acknowledged deputy nabob, the money paid, and this revolution completed.

Here, my lords, opened a new source of plunder, peculation, and bribery, which was not neglected. Revolutions were no longer necessary, succession supplied their places; and well the object agreed with the policy. Rules of succession could not be very well ascertained to an office like that of the nabob, which was hereditary only by the appointment of the Mogul. The issue by lawful wives would naturally be preferred by those who meant the quiet of the country. But a more doubtful title was preferred, as better adapted to the purposes of extortion and peculation. This miserable succession was sold, and the eldest of the issue of Munny Begum, an harlot, brought in to pollute the haram of the seraglio, of whom you will hear much hereafter, was chosen. He soon succeeded to the grave. Another son of the same prostitute succeeded to the same unhappy throne, and followed to the same untimely grave. Every succession was sold; and between venal successions, and venal revolutions, in a very few years seven princes and six sales were seen successively in Bengal. The last was a minor, the issue of a legitimate wife, admitted to succeed because a minor, and because there was none illegitimate left. He was instantly stripped of the allowance of his progenitors, and reduced to a

pension of £.160,000 a year. He still exists, and continued to the end of Mr. Hastings's government, to furnish constant sources of bribery and plunder to him and his creatures.

The offspring of Munny Begum clinging, as his father did, to Nundcomar, they tore Nundcomar from his side, as they had done from the side of his father, and carried him down as a sort of prisoner to Calcutta; where, having had the weakness to become the first informer, he was made the first example. This person, pushed to the wall, and knowing, that the man he had to deal with, was desperate and cruel in his resentments, resolves on the first blow, and enters before the council a regular information in writing, of bribery against Mr. Hastings. In his preface to that charge he excuses himself for what is considered to be an act equally insane and wicked, and as the one inexpiable crime of an Indian—the discovery of the money he gives;—that Mr. Hastings had declaredly determined on his ruin, and to accomplish it had newly associated himself with one Mohun Persaud, a name I wish your lordships to remember, a bitter enemy of his, an infamous person, whom Mr. Hastings knew to be such, and as such had turned him out of his house; that Mr. Hastings had lately recalled, and held frequent communications with this Mohun Persuad, the subject of which he had no doubt was his ruin. In the year 1775 he was hanged by those incorrupt English judges, who were sent to India by parliament to protect the natives from oppression.

Your lordships will observe, that this new sale of the office of ministers succeeded to the sale of that of nabobs. All these varied and successive sales shook the country to pieces. As if those miserable exhausted provinces were to be cured of inanition by phlebotomy—while Cossim Ally was racking it above, the company were drawing off all its nutriment below. A dreadful, an extensive, and most chargeable war followed. Half the northern force of India poured down like a torrent on Bengal, endangered our existence, and exhausted all our resources. The war was the fruit of Mr. Hastings's cabals. Its termination, as usual, was the result of the military merit, and the fortune of this nation. Cossim Ally, after having been defeated by the military genius and spirit of England, (for the Adamses, Monroes, and others of that period, I believe, showed as much skill and bravery as any of their predecessors,) in his flight swept away above three millions in money, jewels, or effects, out of a country, which he had plundered and exhausted by his unheard of exactions. However, he fought his way like a retiring lion, turning his face to his pursuers. He still fought along his frontier. His ability and his money drew to his cause the soubahdar of Oude, the famous Shuja ul Dowla. The Mogul entered into these wars, and penetrated into the lower provinces on one side, whilst Bulwant Sing, the rajah of Benares, entered them on another. After various changes of party, and changes of fortune, the loss, which began in the treachery of the civil service, was, as I have before remarked, redeemed by military merit. Many examples of the same sort have since been seen.

Whilst these things were transacted in India, the court of directors in London, hearing of so many changes, hearing of such an incredible mass of perfidy and venality, knowing, that there was a general market made of the country and of the company; that the flame of war spread from province to province; that, in proportion as it spread, the fire glowed with augmented fierceness; and that the rapacity, which originally gave rise to it, was following it in all its progress; the company, my lords, alarmed not only for their acquisitions but their existence, and finding themselves sinking lower and lower by every victory they obtained, thought it necessary at length to come to some system and some settlement. After composing their differences with Lord Clive, they sent him out to that country about the year 1765, in order, by his name, weight, authority, and vigour of mind, to give some sort of form and stability to goverment, and to rectify the innumerable abuses, which prevailed there; and particularly that great source of disorders, that fundamental abuse—presents: for the bribes, by which all these revolutions were bought, had not the name of conditions, stipulations, or rewards; they even had the free and gratuitous style of presents. The receivers contended, that they were mere gratuities given for service done, or mere tokens of affection and gratitude to the parties. They may give them what names they please, and your lordships will think of them what you please. But they were the donations of misery to power, the gifts of sufferers to the oppressours; and consequently, where they prevailed, they left no certain property or fixed situation to any man in India, from the highest to the lowest.

The court of directors sent out orders to enlarge the servants' covenants, with new and severe clauses, strongly prohibiting the practice of receiving presents. Lord Clive himself had been a large receiver of them. Yet,

as it was in the moment of a revolution, which gave them all they possessed, the company would hear no more of it. They sent him out to reform—whether they chose well or ill, does not signify. I think, upon the whole, they chose well; because his name and authority could do much. They sent him out to redress the grievances of that country, and it was necessary he should be well armed for that service. They sent him out with such powers as no servant of the company ever held before. I would not be understood here in my own character, much less in the delegated character, in which I stand, to contend for any man in the totality of his conduct. Perhaps in some of his measures he was mistaken, and in some of his acts reprehensible: but justice obliges me to say, that the plan, which he formed, and the course, which he pursued, were in general great and well imagined; that he laid great foundations, if they had been properly built upon. For, in the first place, he composed all the neighbouring countries, torn to pieces, by the wars of Cossim Ally, and quieted the apprehensions, raised by the opinion of the boundless ambition of England. He took strong measures to put an end to a great many of the abuses, that prevailed in the country subject to the company. He then proceeded to the upper provinces; and formed a plan, which, for a military man, has great civil and political merit. He put a bound to the aspiring spirit of the company's servants; he limited its conquests; he prescribed bounds to its ambition. First (says he) quiet the minds of the country; what you have obtained, regulate; make it known to India, that you resolve to acquire no more. On this solid plan he fixed every prince, that was concerned in the preceding wars, on the one side and on the other in an happy and easy settlement. He restored Shuja ul Dowla, who had been driven from his dominions by the military arm of Great Britain, to the rank of vizier, and to the dominion of the territories of Oude. With a generosity, that astonished all Asia, he reinstated this expelled enemy of his nation peaceably upon his throne. And this act of politic generosity did more towards quieting the minds of the people of Asia than all the terrour, great as it was, of the English arms. At the same time Lord Clive, generous to all, took peculiar care of our friends and allies. He took care of Bulwant Sing, the great rajah of Benares, who had taken our part in the war. He secured him from the revenge of Shuja ul Dowla. The Mogul had granted us the superiority over Bulwant Sing. Lord Clive re-established him in a secure, easy independency. He confirmed him, under the British gaurantee, in the rich principality, which he held.

The Mogul, the head of the Mussulman religion in India, and of the Indian empire, a head honoured and esteemed even in its ruins, he procured to be recognized by all the persons, that were connected with his empire. The rents, that ought to be paid to the vizier of the empire, he gave to the vizeret. Thus, our alliances were cemented; our enemies were reconciled; all Asia was conciliated by our settlement with the king.

To that unhappy fugitive king, driven from place to place, the sport of fortune, now an emperour, and now a prisoner, prayed for in every mosque, in which his authority was conspired against, one day opposed by the coin struck in his name, and the other day sold for it, to this descendant of Tamerlane he allotted, with a decent share of royal dignity, an honourable fixed residence, where he might be useful, and could not be dangerous.

As to the Bengal provinces, he did not take for the company the vice-royalty, as Mr. Holwell would have persuaded, almost forced, the company to do; but, to satisfy the prejudices of the Mahomedans, the country was left in the hands nominally of the soubah or viceroy, who was to administer the criminal justice and the exteriour forms of royalty. He obtained from the sovereign the dewannee. This is the great act of the constitutional entrance of the company into the body politic of India. It gave to the settlement of Bengal a fixed constitutional form, with a legal title acknowledged and recognized now for the first time by all the natural powers of the country, because it arose from the charter of the undoubted sovereign. The dewannee, or high-stewardship, gave to the company the collection and management of the revenue; and in this modest and civil character they appeared not the oppressours but the protectors of the people. This scheme had all the real power, without any invidious appearance of it; it gave them the revenue, without the parade of sovereignty. On this double foundation the government was happily settled. The minds of the natives were quieted. The company's territories and views were circumscribed. The arm of force was put out of sight. The imperial name covered every thing. The power of the purse was in the hand of the company. The power of the sword was in effect so, as they contracted for the maintenance of the army. The company had a revenue of a million and a half.

The nabob had indeed fallen from any real and effective power, yet the dignity of the court was maintained; the prejudices and interests of the Mahomedans, and particularly of their nobility, who had suffered more by this great revolution even than the old inhabitants of the country, were consulted: for by this plan a revenue of £.500,000 was settled on the vice-royalty, which was thus enabled to provide in some measure for those great families. The company likewise, by this plan, in order to enjoy their revenues securely, and to avoid envy and murmur, put them into the hands of Mahomed Reza Cawn, whom Lord Clive found in the management of affairs, and did not displace; and he was now made deputy steward to the company, as he had been before lieutenant-viceroy to the nabob. A British resident at Moorshedabad was established as a controul. The company exercised their power over the revenue in the first instance, through the natives, but the British resident was in reality the great mover.

If ever this nation stood in a situation of glory throughout Asia, it was in that moment. But as I have said, some material errours and mistakes were committed. After the formation of this plan, Lord Clive unfortunately did not stay long enough in the country to give consistency to the measures of reformation he had undertaken, but rapidly returned to England; and after his departure the government, that continued, had not vigour, or authority, to support the settlement then made; and considerable abuses began to prevail in every quarter. Another capital period in our history here commences. Those, who succeeded (though I believe one of them was one of the honestest men, that ever served the company, I mean governour Vorelst) had not weight enough to poise the system of the service, and consequently many abuses and grievances again prevailed—supervisors were appointed to every district, as a check on the native collectors, and to report every abuse, as it should arise. But they, who were appointed to redress grievances, were themselves accused of being guilty of them. However the disorders were not of that violent kind, which preceded Mr. Hastings's departure, nor such as followed his return—no mercenary wars—no mercenary revolutions, no extirpation of nations, no violent convulsions in the revenue, no subversion of antient houses, no general sales of any descriptions of men—none of these, but certainly such grievances as made it necessary for the company to send out another commission in 1769, with instructions pointing out the chief abuses. It was composed of Mr. Vansittart, Mr. Ford, and Mr. Scrafton. The unfortunate end of that commission is known to all the world: but I mention it in order to state, that the receipt of presents was considered as one of the grievances, which then prevailed in India; and that the supervisors under that commission were ordered upon no account whatever to take presents. Upon the unfortunate catastrophe, which happened, the company was preparing to send out another for the rectification of these grievances, when parliament thought it necessary to supersede that commission—to take the matter into their own hands, and to appoint another commission in a parliamentary way (of which Mr. Hastings was one) for the better government of that country. Mr. Hastings, as I must mention to your lordships, soon after the deposition and restoration of Jaffier Ally Cawn, and before Lord Clive arrived, quitted for a while the scene, in which he had been so mischievously employed, and returned to England to strengthen himself by those cabals, which again sent him out with new authority to pursue the courses, which were the natural sequel to his former proceedings. He returned to India with great power indeed; first, to a seat in council at Fort St. George, and from thence to succeed to the presidency of Fort William. On him the company placed their chief reliance. Happy had it been for them, happy for India, and for England, if his conduct had been such as to spare your lordships and the Commons the exhibition of this day.

When this government, with Mr. Hastings at the head of it, was settled, Moorshedabad did still continue the seat of the native government, and of all the collections. Here the company was not satisfied with placing a resident at the dubar, which was the first step to our assuming the government in that country. These steps must be traced by your lordships, for I should never have given you this trouble, if it was not necessary to possess you clearly of the several progressive steps, by which the company's government came to be established and to supersede the native. The next step was the appointment of supervisors in every province, to oversee the native collector. The third was to establish a general council of revenue at Moorshedabad, to superintend the great steward Mahomed Reza Cawn. In 1772 that council by Mr. Hastings was overturned, and the whole management of the revenue brought to Calcutta. Mahomed Reza Cawn, by orders of the company, was turned out of all his offices, and turned out for reasons

and principles, which your lordships will hereafter see; and at last the dewannee was entirely taken out of the native hands, and settled in the supreme council and presidency itself in Calcutta; and so it remained until the year 1781, when Mr. Hastings made another revolution, took it out of the hands of the supreme council, in which the orders of the company, an act of parliament, and their own act had vested it, and put it into a subordinate council—that is, it was entirely vested in himself.

Now your lordships see the whole of the revolutions. I have stated them, I trust, with perspicuity—stated the grounds and principles upon which they were made—stated the abuses, that grew upon them—and that every revolution produced its abuse. You saw the native government vanish by degrees, until it was reduced to a situation fit for nothing but to become a private perquisite, as it has been to Mr. Hastings, and to be granted to whom he pleased. The English government succeeded, at the head of which Mr. Hastings was placed by an act of parliament, having before held the office of president of the council—the express object of both these appointments being to redress grievances; and within these two periods of his power, as president and governour-general, were those crimes committed, of which he now stands accused. All this history is merely by way of illustration—his crimination begins from his nomination to the presidency; and we are to consider how he comported himself in that station, and in his office of governour-general.

The first thing, in considering the merits or demerits of any governour, is to have some test, by which they are to be tried. And here, my lords, we conceive, that when a British governour is sent abroad, he is sent to pursue the good of the people as much as possible in the spirit of the laws of this country, which in all respects intend their conservation, their happiness, and their prosperity. This is the principle, upon which Mr. Hastings was bound to govern, and upon which he is to account for his conduct here.

His rule was, what a British governour, intrusted with the power of this country, was bound to do, or to forbear. If he has performed, and if he has abstained, as he ought, dismiss him honourably acquitted from your bar—otherwise condemn him. He may resort to other principles and to other maxims; but this country will force him to be tried by its laws. The law of this country recognizes that well-known crime, called misconduct in office; it is a head of the law of England, and, so far as inferiour courts are competent to try it, may be tried in them. Here, your lordships' competence is plenary; you are fully competent both to inquire into, and to punish the offence. And, first, I am to state to your lordships, by the direction of those, whom I am bound to obey, the principles, on which Mr. Hastings declares he has conducted his government; principles, which he has avowed—first, in several letters written to the East-India Company—next, in a paper of defence, delivered to the House of Commons, explicitly; and more explicitly in his defence before your lordships. Nothing in Mr. Hastings's proceedings is so curious as his several defences; and nothing in the defences is so singular, as the principles, upon which he proceeds. Your lordships will have to decide not only upon a large, connected, systematic train of misdemeanours, but an equally connected system of principles and maxims of government, invented to justify those misdemeanours. He has brought them forward and avowed them in the face of day. He has boldly and insultingly thrown them in the face of the representatives of a free people, and we cannot pass them by without adopting them.

I am directed to protest against those grounds and principles, upon which he frames his defence; for, if those grounds are good and valid, they carry off a great deal at least, if not entirely the foundation of our charge. My lords, we contend, that Mr. Hastings, as a British governour, ought to govern on British principles, not by British forms—God forbid; for, if ever there was a case, in which the letter kills and the spirit gives life, it would be an attempt to introduce British forms and the substance of despotic principles together into any country. No. We call for that spirit of equity, that spirit of justice, that spirit of protection, that spirit of lenity, which ought to characterize every British subject in power; and on these, and these principles only, he will be tried.

But he has told your lordships, in his defence, that actions in Asia do not bear the same moral qualities, which the same actions would bear in Europe.

My lords, we positively deny that principle. I am authorized and called upon to deny it. And having stated at large what he means by saying, that the same actions have not the same qualities in Asia and in Europe, we are to let your lordships know, that these gentlemen have formed a plan of *geographical morality*, by which the duties of men, in public and in

private situations, are not to be governed by their relation to the great Governour of the universe, or by their relation to mankind, but by climates, degrees of longitude, parallels not of life but of latitudes; as if, when you have crossed the equinoctial, all the virtues die, as they say some insects die, when they cross the line; as if there were a kind of baptism, like that practised by seamen, by which they unbaptize themselves of all, that they learned in Europe, and after which a new order and system of things commenced.

This geographical morality we do protest against. Mr. Hastings shall not screen himself under it; and on this point I hope and trust many words will not be necessary to satisfy your lordships. But we think it necessary, in justification of ourselves, to declare, that the laws of morality are the same every where; and that there is no action, which would pass for an act of extortion, of peculation, of bribery, and of oppression in England, that is not an act of extortion, of peculation, of bribery, and oppression in Europe, Asia, Africa, and all the world over. This I contend for, not in the technical forms of it, but I contend for it in the substance.

Mr. Hastings comes before your lordships not as a British governour answering to a British tribunal, but as a soubahdar, as bashaw of three tails. He says, "I had an arbitrary power to exercise: I exercised it. Slaves I found the people; slaves they are, they are so by their constitution; and if they are, I did not make it for them. I was unfortunately bound to exercise this arbitrary power, and accordingly I did exercise it. It was disagreeable to me, but I did exercise it, and no other power can be exercised in that country." This, if it be true, is a plea in bar. But I trust and hope your lordships will not judge by laws and institutions, which you do not know, against those laws and institutions, which you do know, and under whose power and authority Mr. Hastings went out to India. Can your lordships patiently hear what we have heard with indignation enough, and what, if there were nothing else, would call these principles as well as the actions, which are justified on such principles, to your lordships' bar; that it may be known whether the Peers of England do not sympathize with the Commons in their detestation of such doctrine? Think of an English governour tried before you as a British subject, and yet declaring, that he governed on the principles of arbitrary power. His plea is, that he did govern there on arbitrary and despotic, and, as he supposes, oriental principles. And as this plea is boldly avowed and maintained, and as, no doubt, all his conduct was perfectly correspondent to these principles, the principles and the conduct must be tried together.

If your lordships will now permit me, I will state one of the many places, in which he has avowed these principles as the basis and foundation of all his conduct. "The sovereignty, which they assumed, it fell to my lot, very unexpectedly, to exert; and whether or not such power, or powers of that nature, were delegated to me by any provisions of any act of parliament, I confess myself too little of a lawyer to pronounce. I only know, that the acceptance of the sovereignty of Benares, &c. is not acknowledged or admitted by any act of parliament; and yet, by the particular interference of the majority of the council, the company is clearly and indisputably seized of that sovereignty." So that this gentleman, because he is not a lawyer, nor clothed with those robes, which distinguish and well distinguish the learning of this country, is not to know any thing of his duty; and whether he was bound by any, or what act of parliament, is a thing he is not lawyer enough to know. Now, if your lordships will suffer the laws to be broken by those, who are not of the long robe, I am afraid those of the long robe will have none to punish but those of their own profession. He therefore goes to a law he is better acquainted with; that is, the law of arbitrary power and force, if it deserves to be called by the name of law. "If, therefore," says he, "the *sovereignty* of Benares, as ceded to us by the vizier, have *any rights whatever* annexed to it, (and be not a mere empty word without meaning,) those rights must be such as are held, countenanced, and established by the law, custom, and usage of the Mogul empire, and not by the provisions of any British act of parliament hitherto enacted. *Those rights*, and none other, I have been the involuntary instrument of enforcing. And if any future act of parliament shall positively, or by implication, tend to annihilate those very rights, or their exertion, as I have exerted them, I much fear, that the boasted sovereignty of Benares, which was held up as an acquisition almost obtruded on the company against my consent and opinion, (for I acknowledge, that even then I foresaw many difficulties and inconveniences in its future exercise;) I fear, I say, that this sovereignty will be found a burden instead of a benefit, a heavy clog rather than a precious gem to its present possessours; I mean, unless

the whole of our territory in that quarter shall be rounded and made an uniform compact body by one grand and systematic arrangement; such an arrangement as shall do away all the mischiefs, doubts, and inconveniences, (both to the governours and the governed,) arising from the variety of tenures, rights, and claims in all cases of landed property and feudal jurisdiction in India, from the informality, invalidity, and instability of all engagements in so divided and unsettled a state of society; and from the unavoidable anarchy and confusion of different laws, religions, and prejudices, moral, civil, and political, all jumbled together in one unnatural and discordant mass. Every part of Hindostan has been constantly exposed to these and similar disadvantages ever since the Mahomedan conquest."

"The Hindûs, who never incorporated with their conquerours, were kept in order only by the strong hand of power. The constant necessity of similar exertions would increase at once their energy and extent, so that rebellion itself is the parent and promoter of despotism. Sovereignty in India implies nothing else. For I know not how we can form an estimate of its powers, but from its visible effects, and those are every where the same from Cabool to Assam. The whole history of Asia is nothing more than precedents to prove the invariable exercise of arbitrary power. To all this I strongly alluded in the minutes I delivered in council, when the treaty with the new vizier was on foot in 1775; and I wished to make Cheit Sing independent, because in India dependence included a thousand evils, many of which I enumerated at that time, and they are entered in the ninth clause of the first section of this charge. I knew the powers, with which an Indian sovereignty is armed, and the dangers, to which tributaries are exposed. I knew, that, from the history of Asia, and from the very nature of mankind, the subjects of a despotic empire are always vigilant for the moment to rebel, and the sovereign is ever jealous of rebellious intentions. A zemindar is an Indian subject, and, as such, exposed to the common lot of his fellows. *The mean and depraved state of a mere zemindar* is therefore this very dependence abovementioned on a despotic government, this very proneness to shake off his allegiance, and this very exposure to continual danger from his sovereign's jealousy, which are consequent on the political state of Hindostanic governments. Bulwant Sing, if he had been, and Cheit Sing, as long as he was, a zemindar, stood exactly in this *mean and depraved state* by the constitution of his country. I did not make it for him, but would have secured him from it. Those, who made him a zemindar, entailed upon him the consequences of so mean and depraved a tenure. Ally Verdy Cawn and Cossim Ally fined all their zemindars on the necessities of war, and on every pretence either of court necessity or court extravagance."

My lords, you have now heard the principles, on which Mr. Hastings governs the part of Asia subjected to the British empire. You have heard his opinion of the mean and depraved state of those, who are subject to it. You have heard his lecture upon arbitrary power, which he states to be the constitution of Asia. You hear the application he makes of it; and you hear the practices, which he employs to justify it, and who the persons were, on whose authority he relies, and whose example he professes to follow. In the first place, your lordships will be astonished at the audacity, with which he speaks of his own administration, as if he was reading a speculative lecture on the evils attendant upon some vitious system of foreign government, in which he had no sort of concern whatsoever. And then, when in this speculative way he has established, or thinks he has, the vices of the government, he conceives he has found a sufficient apology for his own crimes. And if he violates the most solemn engagements, if he oppresses, extorts, and robs, if he imprisons, confiscates, banishes, at his sole will and pleasure, when we accuse him for his ill treatment of the people commited to him as a sacred trust, his defence is,—to be robbed, violated, oppressed is their privilege—let the constitution of their country answer for it.—I did not make it for them. Slaves I found them, and as slaves I have treated them. I was a despotic prince, despotic governments are jealous, and the subjects prone to rebellion. This very proneness of the subject to shake off his allegiance exposes him to continual danger from his sovereign's jealousy; and this is consequent on the political state of Hindostanic governments. He lays it down as a rule, that despotism is the genuine constitution of India, that a disposition to rebellion in the subject, or dependant prince is the necessary effect of this despotism, and that jealousy and its consequences naturally arise on the part of the sovereign—that the government is every thing, and the subject nothing—that the great landed men are in a mean and depraved state, and subject to many evils.

Such a state of things, if true, would war-

rant conclusions directly opposite to those, which Mr. Hastings means to draw from them, both argumentatively, and practically, first to influence his conduct, and then to bottom his defence of it.

Perhaps you will imagine, that the man, who avows these principles of arbitrary government, and pleads them as the justification of acts, which nothing else can justify, is of opinion, that they are on the whole good for the people, over whom they are exercised. The very reverse. He mentions them as horrible things, tending to inflict on the people a thousand evils, and to bring on the ruler a continual train of dangers. Yet he states, that your acquisitions in India will be a detriment instead of an advantage, if you destroy arbitrary power, unless you can reduce all the religious establishments, all the civil institutions, and tenures of land, into one uniform mass; i. e. unless by acts of arbitrary power you extinguish all the laws, rights, and religious principles of the people, and force them to an uniformity; and on that uniformity build a system of arbitrary power.

But nothing is more false, than that despotism is the constitution of any country in Asia, that we are acquainted with. It is certainly not true of any Mahomedan constitution. But if it were, do your lordships really think, that the nation would bear, that any human creature would bear, to hear an English governour defend himself on such principles? or, if he can defend himself on such principles, is it possible to deny the conclusion, that no man in India has a security for any thing, but by being totally independent of the British government? Here he has declared his opinion, that he is a despotic prince, that he is to use arbitrary power, and of course all his acts are covered with that shield. "*I know*, says he, *the constitution of Asia only from its practice*." Will your lordships submit to hear the corrupt practices of mankind made the principles of government?—No; it will be your pride and glory to teach men intrusted with power, that, in their use of it, they are to conform to principles, and not to draw their principles from the corrupt practice of any man whatever. Was there ever heard, or could it be conceived, that a governour would dare to heap up all the evil practices, all the cruelties, oppressions, extortions, corruptions, briberies, of all the ferocious usurpers, desperate robbers, thieves, cheats, and jugglers, that ever had office from one end of Asia to another, and consolidating all this mass of the crimes and absurdities of barbarous domination into one code, establish it as the whole duty of an English governour? I believe, that till this time so audacious a thing was never attempted by man.—

He have arbitrary power! My lords, the East-India Company have not arbitrary power to give him; the king has no arbitrary power to give him; your lordships have not; nor the Commons; nor the whole legislature. We have no arbitrary power to give, because arbitrary power is a thing, which neither any man can hold nor any man can give. No man can lawfully govern himself according to his own will, much less can one person be governed by the will of another. We are all born in subjection, all born equally, high and low, governours and governed, in subjection to one great, immutable, pre-existent law, prior to all our devices, and prior to all our contrivances, paramount to all our ideas, and all our sensations, antecedent to our very existence, by which we are knit and connected in the eternal frame of the universe, out of which we cannot stir.

This great law does not arise from our conventions or compacts; on the contrary, it gives to our conventions and compacts all the force and sanction they can have;—it does not arise from our vain institutions. Every good gift is of God; all power is of God;—and He, who has given the power, and from whom alone it originates, will never suffer the exercise of it to be practised upon any less solid foundation than the power itself. If then all dominion of man over man is the effect of the divine disposition, it is bound by the eternal laws of Him, that gave it, with which no human authority can dispense; neither he, that exercises it, nor even those, who are subject to it: and, if they were mad enough to make an express compact, that should release their magistrate from his duty, and should declare their lives, liberties, and properties dependent upon, not rules and laws, but his mere capricious will, that covenant would be void. The acceptor of it has not his authority increased, but he has his crime doubled. Therefore can it be imagined, if this be true, that he will suffer this great gift of government, the greatest, the best, that was ever given by God to mankind, to be the plaything and the sport of the feeble will of a man, who, by a blasphemous, absurd, and petulant usurpation, would place his own feeble, contemptible, ridiculous will in the place of the divine wisdom and justice?

The title of conquest makes no difference at all. No conquest can give such a right; for conquest, that is force, cannot convert its own injustice into a just title, by which it may rule

others at its pleasure. By conquest, which is a more immediate designation of the hand of God, the conquerour succeeds to all the painful duties and subordination to the power of God, which belonged to the sovereign, whom he has displaced, just as if he had come in by the positive law of some descent, or some election. To this at least he is strictly bound—he ought to govern them, as he governs his own subjects. But every wise conquerour has gone much further than he was bound to go. It has been his ambition and his policy to reconcile the vanquished to his fortune, to show, that they had gained by the change, to convert their momentary suffering into a long benefit, and to draw from the humiliation of his enemies an accession to his own glory. This has been so constant a practice, that it is to repeat the histories of all politic conquerours in all nations and in all times; and I will not so much distrust your lordships' enlightened and discriminating studies and correct memories, as to allude to one of them. I will only show you, that the court of directors, under whom he served, has adopted that idea, that they constantly inculcated it to him, and to all the servants, that they run a parallel between their own and the native government, and supposing it to be very evil did not hold it up as an example to be followed, but as an abuse to be corrected; that they never made it a question, whether India is to be improved by English law and liberty, or English law and liberty vitiated by Indian corruption.

No, my lords, this arbitrary power is not to be had by conquest. Nor can any sovereign have it by succession, for no man can succeed to fraud, rapine, and violence; neither by compact, covenant, or submission,—for men cannot covenant themselves out of their rights and their duties; nor by any other means can arbitrary power be conveyed to any man. Those, who give to others such rights, perform acts, that are void as they are given, good indeed and valid only as tending to subject themselves and those, who act with them, to the divine displeasure; because morally there can be no such power. These, who give, and those, who receive, arbitrary power are alike criminal; and there is no man but is bound to resist it to the best of his power, wherever it shall show its face to the world. It is a crime to bear it, when it can be rationally shaken off. Nothing but absolute impotence can justify men in not resisting it to the utmost of their ability.

Law and arbitrary power are in eternal enmity. Name me a magistrate, and I will name property; name me power, and I will name protection. It is a contradiction in terms; it is blasphemy in religion; it is wickedness in politics, to say, that any man can have arbitrary power. In every patent of office the duty is included. For what else does a magistrate exist? To suppose for power is an absurdity in idea. Judges are guided and governed by the eternal laws of justice, to which we are all subject. We may bite our chains if we will, but we shall be made to know ourselves, and be taught, that man is born to be governed by law; and he, that will substitute *will* in the place of it, is an enemy to God.

Despotism does not in the smallest degree abrogate, alter, or lessen any one duty of any one relation of life, or weaken the force or obligation of any one engagement or contract whatsoever. Despotism, if it means any thing, that is at all defensible, means a mode of government, bound by no written rules, and coerced by no controulling magistracies, or well settled orders in the state. But if it has no written law, it neither does, nor can, cancel the primeval, indefeasible, unalterable law of nature, and of nations; and if no magistracies controul its exertions, those exertions must derive their limitation and direction either from the equity and moderation of the ruler, or from downright revolt on the part of the subject by rebellion, divested of all its criminal qualities. The moment a sovereign removes the idea of security and protection from his subjects, and declares, that he is every thing, and they nothing, when he declares, that no contract he makes with them can or ought to bind him, he then declares war upon them. He is no longer sovereign; they are no longer subjects.

No man, therefore, has a right to arbitrary power. But the thought, which is suggested by the depravity of him, who brings it forward, is supported by a gross confusion of ideas and principles, which your lordships well know, how to discern and separate. It is manifest, that in the eastern governments, and the western, and in all governments, the supreme power in the state cannot, whilst that state subsists, be rendered criminally responsible for its actions; otherwise it would not be the supreme power. It is certainly true; but the actions do not change their nature by losing their responsibility. The arbitrary acts, which are unpunished, are not the less vitious, though none but God, the conscience, and the opinions of mankind take cognizance of them.

It is not merely so in this or that government, but in all countries. The king in this country is undoubtedly unaccountable for his

actions. The House of Lords, if it should ever exercise, (God forbid I should suspect it would ever do what it has never done,) but if it should ever abuse its judicial power, and give such a judgment as it ought not to give, whether from fear of popular clamour on the one hand, or predilection to the prisoner on the other; if they abuse their judgments, there is no calling them to an account for it. And so, if the Commons should abuse their power,—nay, if they should have been so greatly delinquent as not to have prosecuted this offender, they could not be accountable for it; there is no punishing them for their acts, because we exercise a part of the supreme power. But are they less criminal, less rebellious against the Divine Majesty? are they less hateful to man, whose opinions they ought to cultivate as far as they are just? No. Till society fall into a state of dissolution, they cannot be accountable for their acts. But it is from confounding the unaccountable character, inherent in the supreme power, with arbitrary power, that all this confusion of ideas has arisen.

Even upon a supposition, that arbitrary power can exist any where, which we deny totally, and which your lordships will be the first and proudest to deny, still absolute, supreme dominion was never conferred or delegated by you; much less, arbitrary power, which never did in any case, nor ever will in any case, time or country, produce any one of the ends of just government.

It is true, that the supreme power in every constitution of government must be absolute; and this may be corrupted into the arbitrary. But all good constitutions have established certain fixed rules for the exercise of their functions, which they rarely or ever depart from, and which rules form the security against that worst of evils, the government of will and force instead of wisdom and justice.

But though the supreme power is in a situation resembling arbitrary, yet never was there heard of in the history of the world, that is, in that mixed chaos of human wisdom and folly, such a thing as an *intermediate* arbitrary power—that is, of an officer of government, who is to exert authority over the people without any law at all, and who is to have the benefit of all laws, and all forms of law, when he is called to an account. For that is to let a wild beast (for such is a man without law) loose upon the people to prey on them at his pleasure; whilst all the laws, which ought to secure the people against the abuse of power, are employed to screen that abuse against the cries of the people.

This is *de facto* the state of our Indian government. But to establish it so in right as well as in fact, is a thing left for us to begin with,—the first of mankind.

For a subordinate, arbitrary, or even despotic power never was heard of in right, claim, or authorized practice. Least of all has it been heard of in the eastern governments, where all the instances of severity and cruelty fall upon governours, and persons intrusted with power. This would be a gross contradiction. Before Mr. Hastings none ever came before his superiours to claim it; because, if any such thing could exist, he claims the very power of that sovereign, who calls him to account.

But suppose a man to come before us, denying all the benefits of law to the people under him,—and yet, when he is called to account, to claim all the benefits of that law, which was made to screen mankind from the excesses of power: such a claim, I will venture to say, is a monster, that never existed except in the wild imagination of some theorist. It cannot be admitted, because it is a perversion of the fundamental principle, that every power, given for the protection of the people below, should be responsible to the power above. It is to suppose, that the people shall have no laws with regard to *him*, yet when *he* comes to be tried, he shall claim the protection of those laws, which were made to secure the people from his violence; that he shall claim a fair trial, an equitable hearing, every advantage of counsel, (God forbid he should not have them,) yet that the people under him shall have none of those advantages. The reverse is the principle of every just and rational procedure. For the people, who have nothing to use but their natural faculties, ought to be gently dealt with; but those, who are intrusted with an artificial and instituted authority, have in their hands a great deal of the force of other people; and as their temptations to injustice are greater, so their means are infinitely more effectual for mischief by turning the powers given for the preservation of society to its destruction; so that if an arbirary procedure be justifiable, a strong one I am sure is, it is when used against those, who pretend to use it against others.

My lords, I will venture to say of the governments of Asia, that none of them ever had an arbitrary power; and, if any governments had an arbitrary power, they cannot delegate it to any persons under them; that is, they cannot so delegate it to others as not to leave them accountable on the principles, upon which it

was given. As this is a contradiction in terms, a gross absurdity as well as a monstrous wickedness, let me say, for the honour of human nature, that although undoubtedly we may speak it with the pride of England, that we have better institutions for the preservation of the rights of men, than any other country in the world; yet I will venture to say, that no country has wholly meant, or ever meant, to give this power.

As it cannot exist in right on any rational and solid principles of government, so neither does it exist in the constitution of oriental governments, and I do insist upon it, that oriental governments know nothing of arbitrary power. I have taken as much pains as I could to examine into the constitutions of them. I have been endeavouring to inform myself at all times on this subject; of late, my duty has led me to a more minute inspection of them, and I do challenge the whole race of man to show me any of the oriental governours claiming to themselves a right to act by arbitrary will.

The greatest part of Asia is under Mahomedan governments. To name a Mahomedan government, is to name a government by law. It is a law enforced by stronger sanctions than any law, that can bind a Christian sovereign. Their law is believed to be given by God, and it has the double sanction of law and of religion, with which the prince is no more authorized to dispense than any one else. And, if any man will produce the Koran to me, and will but show me one text in it, that authorizes in any degree an arbitrary power in the government, I will confess, that I have read that book, and been conversant in the affairs of Asia, in vain. There is not such a syllable in it; but, on the contrary, against oppressours by name every letter of that law is fulminated. There are interpreters established throughout all Asia, to explain that law, an order of priesthood, whom they call *men of the law*. These men are conservators of the law; and, to enable them to preserve it in its perfection, they are secured from the resentment of the sovereign, for he cannot touch them. Even their kings are not always vested with a real supreme power; but the government is in some degree republican.

To bring this point a little nearer home, since we are challenged thus, since we are led into Asia, since we are called upon to make good our charge on the principles of the governments there, rather than on those of our own country, (which I trust your lordships will oblige him finally to be governed by, puffed up as he is with the insolence of Asia,) the nearest to us of the governments he appeals to is that of the Grand Seignior, the emperour of the Turks—*He* an arbitrary power! Why he has not the supreme power of his own country. Every one knows, that the Grand Seignior is exalted high in *titles*, as our prerogative lawyers exalt an abstract sovereign, and he cannot be exalted higher in our books. I say he is destitute of the first character of sovereign power. He cannot lay a tax upon his people.

The next part, in which he misses of a sovereign power, is, that he cannot dispose of the life, of the property, or of the liberty of any of his subjects, but by what is called the *fetfa*, or sentence of the law. He cannot declare peace or war without the same sentence of the law; so much is *he*, more than European sovereigns, a subject of strict law, that he cannot declare war or peace without it. Then, if he can neither touch life nor property, if he cannot lay a tax on his subjects, or declare peace or war, I leave it to your lordships' judgment, whether he can be called, according to the principles of that constitution, an arbitrary power. A Turkish sovereign, if he should be judged by the body of that law to have acted against its principles, (unless he happens to be secured by a faction of the soldiery) is liable to be deposed on the sentence of that law, and his successour comes in under the strict limitations of the antient law of that country: neither can he hold his place, dispose of his succession, or take any one step whatever, without being bound by law. Thus much may be said, when gentlemen talk of the affairs of Asia, as to the nearest of Asiatic sovereigns; and he is more Asiatic than European, he is a Mahomedan sovereign; and no Mahomedan is born, who can exercise any arbitrary power at all, consistently with their constitution: insomuch that this chief magistrate, who is the highest executive power among them, is the very person, who, by the constitution of the country, is the most fettered by law.

Corruption is the true cause of the loss of all the benefits of the constitution of that country. The *practice of Asia*, as the gentleman at your bar has thought fit to say, is what he holds to; the constitution he flies away from. The question is, whether you will take the constitution of the country as your rule, or the base practices of those usurpers, robbers, and tyrants, who have subverted it. Undoubtedly much blood, murder, false imprisonment, much peculation, cruelty and robbery are to be found in Asia; and if, instead of going to the sacred laws of the country, he chooses to resort to the iniquitous practices of it, and practices autho-

rized only by public tumult, contention, war, and riot, he may indeed find as clear an acquittal in the practices, as he would find condemnation in the institutions of it. He has rejected the law of England. Your lordships will not suffer it. God forbid! For my part I should have no sort of objection to let him choose his law—Mahomedan, Tartarean, Gentû. But if he disputes, as he does, the authority of an act of parliament, let him state to me that law, to which he means to be subject, or any law, which he knows, that will justify his actions. I am not authorized to say, that I shall, even in that case, give up what is not in me to give up, because I represent an authority, of which I must stand in awe; but, for myself, I shall confess, that I am brought to public shame, and am not fit to manage the great interests committed to my charge. I therefore again repeat of that Asiatic government, with which we are best acquainted, which has been constituted more in obedience to the laws of Mahomed, than any other,—that the sovereign cannot, agreeably to that constitution, exercise any arbitrary power whatever.

The next point for us to consider is, whether or no the Mahomedan constitution of India authorizes that power. The gentleman at your lordships' bar has thought proper to say, that it will be happy for India (though soon after he tells you it is an happiness they can never enjoy) "when the despotic institutes of Genghiz Khân or Tamerlane shall give place to the liberal spirit of a British legislature; and," says he, "I shall be amply satisfied in my present prosecution, if it shall tend to hasten the approach of an event so beneficial to the great interests of mankind."

My lords, you have seen what he says about an act of parliament. Do you not now think it rather an extraordinary thing, that any British subject should, in vindication of the authority which he has exercised, here quote the names and institutes, as he calls them, of fierce conquerours, of men, who were the scourges of mankind, whose power was a power, which they held by force only?

As to the institutes of Genghiz Khân, which he calls arbitrary institutes, I never saw them. If he has that book, he will oblige the public by producing it. I have seen a book existing called Yassa of Genghiz Khân; the other I never saw. If there be any part of it to justify arbitrary power, he will produce it. But, if we may judge by those ten precepts of Genghiz Khân, which we have, there is not a shadow of arbitrary power to be found in any one of them. Institutes of arbitrary power? Why, if there is arbitrary power, there can be no institutes.

As to the institutes of Tamerlane; here they are in their original, and here is a translation. I have carefully read every part of these institutes; and if any one shows me one word in them, in which the prince claims in himself arbitrary power, I again repeat, that I shall for my own part confess, that I have brought myself to great shame. There is no book in the world, I believe, which contains nobler, more just, more manly, more pious principles of government than this book, called the Institutions of Tamerlane. Nor is there one word of arbitrary power in it, much less of that arbitrary power, which Mr. Hastings supposes himself justified by; namely a delegated, subordinate, arbitrary power. So far was that great prince from permitting this gross, violent, intermediate, arbitrary power, that I will venture to say, the chief thing, by which he has reccommended himself to posterity, was a most direct declaration of all the wrath and indignation of the supreme government against it. But here is the book. It contains the institutes of the founder of the Mogul empire, left as a sacred legacy to his posterity, as a rule for their conduct, and as a means of preserving their power.

"BE it known to my fortunate sons, the conquerours of kingdoms, to my mighty descendants, the lords of the earth, that, since I have hope in Almighty God, that many of my children, descendants and posterity, shall sit upon the throne of power and regal authority; upon this account, having established laws and regulations for the well governing of my dominions, I have collected together those regulations and laws as a model for others; to the end that every one of my children, descendants and posterity, acting agreeably thereto, my power and empire, which I acquired through hardships, and difficulties, and perils, and bloodshed, by the divine favour and by the influence of the holy religion of Mahomed, (God's peace be upon him,) and with the assistance of the powerful descendants and illustrious followers of that prophet, may be by them preserved.

"And let them make these regulations the rule of their conduct in the affairs of their empire, that the fortune and the power, which shall descend from me to them, may be safe from discord and dissolution.

"Now therefore be it known to my sons, the fortunate and the illustrious, to my descendants, the mighty subduers of kingdoms, that, in like manner as I by twelve maxims, which I established as the rule of my conduct,

attained to regal dignity, and with the assistance of these maxims conquered and governed kingdoms, and decorated and adorned the throne of my empire, let them also act according to these regulations, and preserve the splendour of mine and their dominions.

"And among the rules, which I established for the support of my glory and empire, the *First* was this—That I promoted the worship of Almighty God, and propagated the religion of the sacred Mahomed throughout the world; and at all times, and in all places, supported the true faith.

"*Secondly:* With the people of the twelve classes and tribes I conquered and governed kingdoms; and with them I strengthened the pillars of my fortune, and from them I formed my assembly.

"*Thirdly:* By consultation, and deliberation, and provident measures, by caution, and by vigilance, I vanquished armies, and I reduced kingdoms to my authority. And I carried on the business of my empire by complying with times and occasions, and by generosity, and by patience, and by policy; and I acted with courteousness towards my friends and towards my enemies.

"*Fourthly:* By order and by discipline I regulated the concerns of my government; and by discipline and by order I so firmly established my authority, that the ameers and the viziers, and the soldiers, and the subjects, could not aspire beyond their respective degrees; and every one of them was the keeper of his own station.

"*Fifthly:* I gave encouragement to my ameers, and to my soldiers, and with money and with jewels I made them glad of heart; and I permitted them to come into the banquet; and in the field of blood they hazarded their lives. And I withheld not from them my gold nor my silver. And I educated and trained them to arms; and to alleviate their sufferings I myself shared in their labours, and in their hardships, until with the arm of fortitude and resolution, and with the unanimity of my chiefs, and my generals, and my warriours, by the edge of the sword I obtained possession of the thrones of seven-and-twenty kings; and became the king and the ruler of the kingdoms of Eracen and of Tooraun; and of Room, and of Mughrib, and of Shaum; and of Missur, and of Erank-a-Arrub, and of Ajjum; and of Mauzinduraun, and of Kylaunaut; and of Shurvaunaut, and of Azzurbauejaun; and of Fauris, and of Khorausaun; and of the Dusht of Jitteh, and the Dusht of Kipchauk; and of Khauruzm, and of Khuttun, and of Kauboolistaun; and of Hindostaun, and of Baukhtur Zemeen.

"And when I clothed myself in the robe of empire, I shut my eyes to safety, and to the repose, which is found on the bed of ease. And from the twelfth year of my age I travelled over countries, and combated difficulties, and formed enterprizes, and vanquished armies; and experienced mutinies among my officers and my soldiers, and was familiarized to the language of disobedience; and I opposed them with policy and with fortitude, and I hazarded my person in the hour of danger; until in the end I vanquished kingdoms and empires, and established the glory of my name.

"*Sixthly:* By justice and equity I gained the affections of the people of God; and I extended my clemency to the guilty as well as to the innocent; and I passed that sentence, which truth required: and by benevolence I gained a place in the hearts of men; and by rewards and punishments I kept both my troops and my subjects divided between hope and fear. And I compassionated the lower ranks of my people, and those, who were distressed. And I gave gifts to the soldiers.

"And I delivered the oppressed from the hand of the oppressour; and, after proof of the oppression, whether on the property or the person, the decision, which I passed between them, was agreeable to the sacred law. And I did not cause any one person to suffer for the guilt of another.

"Those, who had done me injuries, who had attacked my person in battle, and had counteracted my schemes and enterprizes, when they threw themselves on my mercy, I received them with kindness; I conferred on them additional honours, and I drew the pen of oblivion over their evil actions. And I treated them in such sort, that if suspicion remained in their hearts, it was plucked out entirely.

"*Seventhly:* I selected out, and treated with esteem and veneration the posterity of the prophet, and the theologians, and the teachers of the true faith, and the philosophers, and the historians. And I loved men of courage and valour; for God Almighty loved the brave. And I associated with good and learned men; and I gained their affections, and I entreated their support, and I sought success from their holy prayers. And I loved the dervishes and the poor; and I oppressed them not; neither did I exclude them from my favour. And I permitted not the evil and the malevolent to enter into my council; and I acted not by their advice: and I listened not to their insinuations to the prejudice of others.

"*Eighthly:* I acted with resolution; and on whatever undertaking I resolved, I made that

undertaking the only object of my attention: and I withdrew not my hand from that enterprize, until I had brought it to a conclusion. And I acted according to that, which I said. And I dealt not with severity towards any one, and I was not oppressive in any of my actions; that God Almighty might not deal severely towards me, nor render my own actions oppressive unto me.

"And I inquired of learned men into the laws and regulations of antient princes from the days of Adam to those of the prophet, and from the days of the prophet down to this time. And I weighed their institutions, and their actions, and their opinions, one by one. And from their approved manners, and their good qualities, I selected models. And I inquired into the causes of the subversion of their power, and I shunned those actions, which tend to the destruction and overthrow of regal authority. And from cruelty and from oppression, which are the destroyers of posterity, and the bringers of famine and of plagues, I found it was good to abstain.

"*Ninthly:* The situation of my people was known unto me. And those, who were great among them, I considered as my brethren; and I regarded the poor as my children. And I made myself acquainted with the tempers and the dispositions of the people of every country, and of every city. And I contracted intimacies with the citizens, and the chiefs, and the nobles; and I appointed over them governours adapted to their manners, and their dispositions, and their wishes. And I knew the circumstances of the inhabitants of every province. And in every kingdom I appointed writers of intelligence, men of truth and integrity, that they might send me information of the conduct, and the behaviour, and the actions, and the manners, of the troops and of the inhabitants, and of every occurrence, that might come to pass among them. And, if I discovered aught contrary to their information, I inflicted punishment on the intelligencer; and every circumstance of cruelty and oppression in the governours, and in the troops, and in the inhabitants, which reached my ears, I chastised agreeably to justice and equity.

"*Tenthly:* Whatever tribe, and whatever horde, whether Toork or Tacuheek, or Arrub, or Ajjum, came in unto me, I received their chiefs with distinction and respect, and their followers I honoured according to their degrees and their stations, and to the good among them I did good, and the evil I delivered over to their evil actions.

"And whoever attached himself unto me, I forgot not the merit of his attachment, and I acted towards him with kindness and generosity; and whoever had rendered me services, I repaid the value of those services unto him. And whoever had been my enemy, and was ashamed thereof, and flying to me for protection, humbled himself before me, I forgot his enmity, and I purchased him with liberality and kindness.

"In such manner Share Behraum, the chief of a tribe, was along with me. And he left me in the hour of action; and he united with the enemy, and he drew forth his sword against me. And at length, my salt, which he had eaten, seized upon him; and he again fled to me for refuge, and humbled himself before me. As he was a man of illustrious descent, and of bravery, and of experience, I covered my eyes from his evil actions; and I magnified him, and I exalted him to a superiour rank, and I pardoned his disloyalty in consideration of his valour.

"*Eleventhly:* My children, and my relations, and my associates, and my neighbours, and such as had been connected with me, all these I distinguished in the days of my fortune and prosperity, and I paid unto them their due. And with respect to my family, I rent not asunder the bands of consanguinity and mercy; and I issued not commands to slay them, or to bind them with chains.

"And I dealt with every man, whatever the judgment I had formed of him, according to my own opinion of his worth. As I had seen much of prosperity and adversity, and had acquired knowledge and experience, I conducted myself with caution, and with policy, towards my friends and towards my enemies.

"*Twelfthly:* Soldiers, whether associates or adversaries, I held in esteem; those, who sell their permanent happiness to perishable honour, and throw themselves into the fields of slaughter, and battle, and hazard their lives in the hour of danger.

"And the man, who drew his sword on the side of my enemy, and committed hostilities against me, and preserved his fidelity to his master, him I greatly honoured: and when such a man came unto me, knowing his worth, I classed him with my faithful associates; and I respected and valued his fidelity and his attachment.

"And the soldier, who forgot his duty and his honour, and in the hour of action turned his face from his master, and came in unto me, I considered as the most detestable of men.

"And in the war between Touktummish

Khaum, his amoers forgot their duty to Touktummish, who was their master and my foe, and sent proposals and wrote letters unto me. And I uttered execrations upon them, because unmindful of that, which they owed to their lord, they had thrown aside their honour and their duty, and came in unto me. I said unto myself, what fidelity have they observed to their liege lord? what fidelity will they show unto me?

"And, behold, it was known unto me by experience, that every empire, which is not established in morality and religion, nor strengthened by regulations and laws, from that empire all order, grandeur, and power shall pass away. And that empire may be likened unto a naked man, who, when exposed to view, commandeth the eye of modesty to be covered; and it is like unto a house, which hath neither roof nor gates, nor defences; into which, whoever willeth, may enter unmolested.

"THEREFORE, I established the foundation of my empire on the morality and the religion of Islaum; and by regulations and laws, I gave it stability. And by laws and by regulations I executed every business and every transaction, that came before me in the course of my government."—

I need not read any further, or I might show your lordships the noble principles, the grand, bold, and manly maxims, the resolution to abstain from oppression himself, and to crush it in the governours under him, to be found in this book, which Mr. Hastings has thought proper to resort to as containing, what he calls, arbitrary principles.

But it is not in this instance only, that I must do justice to the East. I assert, that their morality is equal to ours, in whatever regards the duties of governours, fathers, and superiours; and I challenge the world to show, in any modern European book, more true morality and wisdom than is to be found in the writings of Asiatic men in high trust, and who have been counsellours to princes. If this be the true morality of Asia, as I affirm, and can prove, that it is, the plea founded on Mr. Hastings's geographical morality is annihilated.

I little regard the theories of travellers, where they do not relate the facts, on which they are founded. I have two instances of facts, attested by Tavernier, a traveller of power and consequence, which are very material to be mentioned here, because they show, that, in some of the instances recorded, in which the princes of the country have used any of those cruel and barbarous executions, which make us execrate them, it has been upon governours, who have abused their trust, and that this very oriental authority, to which Mr. Hastings appeals, would have condemned him to a dreadful punishment. I thank God, and I say it from my heart, that even for his enormous offences there neither is, nor can be, any thing like such punishments. God forbid, that we should not as much detest out of the way, mad, furious, and unequal punishments, as we detest enormous and abominable crimes; because a severe and cruel penalty for a crime of a light nature is as bad and iniquitous as the crime, which it pretends to punish. As the instances I allude to are curious, and as they go to the principles of Mr. Hastings's defence, I shall beg to quote them.

The first is upon a governour, who did, what Mr. Hastings says he has a power delegated to him to do; he levied a tax without the consent of his master. "Some years after my departure from Com, (says *Tavernier*,) the governour had, of his own accord, and without any communication with the king, laid a small impost upon every pannier of fruit brought into the city, for the purpose of making some necessary reparations in the walls and bridges of the town. It was towards the end of the year 1632, that the event, I am going to relate, happened. The king being informed of the impost, which the governour had laid upon the fruit, ordered him to be brought in chains to court. The king ordered him to be exposed to the people at one of the gates of the palace: then he commanded the son to pluck off the mustachios of his father, to cut off his nose and ears, to put out his eyes, and then cut off his head. The king then told the son to go and take possession of the government of his father, saying, *See, that you govern better than this deceased dog, or thy doom shall be a death more exquisitely tormenting*."

My lords, you are struck with horrour, I am struck with horrour, at this punishment. I do not relate it to approve of such a barbarous act; but to prove to your lordships, that whatever power the princes of that country have, they are jealous of it to such a degree, that, if any of their governours should levy a tax, even the most insignificant, and for the best purposes, he meets with a cruel punishment. I do not justify the punishment; but the severity of it shows, how little of their power the princes of that country mean to delegate to their servants, the whole of which the gentleman at your bar says was delegated to him.

There is another case, a very strong one, and that is the case of presents, which I un-

derstand is a custom admitted throughout Asia in all their governments. It was of a person, who was raised to a high office; no business was suffered to come before him without a previous present. "One morning, the king being at this time on a hunting party, the nazar came to the tent of the king, but was denied entrance by the *meter*, or master of the wardrobe. About the same time the king came forth, and, seeing the nazar, commanded his officers to take off the bonnet from the head of that dog, that took gifts from his people; and that he should sit three days bareheaded in the heat of the sun, and as many nights in the air. Afterwards he caused him to be chained about the neck and arms, and condemned him to perpetual imprisonment, with a mamoudy a day for his maintenance; but he died for grief within eight days after he was put in prison."

Do I mean, by reading this to your lordships, to express or intimate an approbation, either of the cruelty of the punishment, or of the coarse barbarism of the language? neither one nor the other. I produce it to your lordships to prove to you from this dreadful example the horrour which that government felt, when any person subject to it assumed to himself a privilege to receive presents. The cruelty and severity exercised by these princes is not levelled at the poor, unfortunate people, who complain at their gates, but, to use their own barbarous expression, *to dogs, that impose taxes and take presents.*—God forbid, I should use that language. The people, when they complain, are not called dogs and sent away, but the governours, who do these things against the people; they are called dogs, and treated in that cruel manner. I quote them to show, that no governours in the East, upon any principle of their constitution, or any good practice of their government, can lay arbitrary imposts, or receive presents. When they escape, it is probably by bribery, by corruption, by creating factions for themselves in the seraglio, in the country, in the army, in the divan. But how they escape such punishments, is not my business to inquire; it is enough for me, that the constitution disavows them, that the princes of the country disavow them; that they revile them with the most horrible expressions, and inflict dreadful punishments on them, when they are called to answer for these offences.

Thus much concerning the Mahomedan laws of Asia. That the people of Asia have no laws, rights, or liberty, is a doctrine, that wickedly is to be disseminated through this country. But I again assert, every Mahomedan government is, by its principles, a government of law.

I shall now state from what is known of the government of India, that it does not, and cannot delegate (as Mr. Hastings has frequently declared) the whole of its powers and authority to him. If they are absolute, as they must be in the supreme power, they ought to be arbitary in none; they were, however, never absolute in any of their subordinate parts, and I will prove it by the known provincial constitutions of Hindostan, which are all Mahomedan, the laws of which are as clear, as explicit, and as learned as ours.

The first foundation of their law is the Khorân. The next part is the *fetfa*, or adjudged cases by proper authority, well known there. The next, the written interpretations of the principles of jurisprudence; and their books are as numerous upon the principles of jurisprudence, as in any country in Europe. The next part of their law is what they call the *kanon*, that is, a positive rule equivalent to acts of parliament, the law of the several powers of the country, taken from the Greek word KANON, which was brought into their country, and is well known. The next is the *rage ul mulk*, or common law and custom of the kingdom, equivalent to our common law. Therefore they have laws from more sources than we have, exactly in the same order, grounded upon the same authority, fundamentally fixed to be administered to the people upon these principles.

The next thing is to shew, that in India there is a partition of the powers of the government, which proves that there is no absolute power delegated.

In every province the first person is the soubahdar or naxim, or viceroy: he has the power of the sword, and the administration of criminal justice only. Then there is the dewan, or high steward; he has the revenue, and all exchequer causes under him, to be governed according to the law, and customs, and institutions of the kingdom.

The law of inheritances, successions, and every thing that relates to them, is under the câdi, in whose court these matters are tried. But this too was subdivided. The câdi could not judge, but by the advice of his assessours. Properly in the Mahomedan law there is no appeal, only a removal of the cause; but when there is no judgment, as none can be, when the court is not unanimous, it goes to the general assembly of all the men of the law.

There are, I will venture to say, other divi-

sions and subdivisions; for there are the kanongoes, who hold their places for life, to be the conservators of the canons, customs, and good usages of the country; all these, as well the câdi and the mufti, hold their places and situations, not during the wanton pleasure of the prince, but, on permanent and fixed terms, for life. All these powers of magistracy, revenue, and law, are all different, consequently not delegated in the whole to any one person. This is the provincial constitution, and these the laws, of Bengal, which proves, if there were no other proof, by the division of the functions and authorities, that the supreme power of the state in the Mogul empire did, by no means, delegate to any of its officers the supreme power in its fulness. Whether or no we have delegated to Mr. Hastings the supreme power of king and parliament, that he should act with the plenitude of authority of the British legislature, you are to judge.

Mr. Hastings has no refuge here. Let him run from law to law; let him fly from the common law, and the sacred institutions of the country, in which he was born; let him fly from acts of parliament, from which his power originated; let him plead his ignorance of them, or fly in the face of them. Will he fly to the Mahomedan law?—that condemns him. Will he fly to the high magistracy of Asia to defend taking of presents? Pad Shâ and the sultan would condemn him to a cruel death. Will he fly to the sophis, to the laws of Persia, or to the practice of those monarchs? I cannot utter the pains, the tortures, that would be inflicted on him, if he were to govern there, as he has done in a British province! Let him fly where he will, from law to law;—law (I thank God) meets him every where, and enforced too by the practice of the most impious tyrants, which he quotes as if it would justify his conduct. I would as willingly have him tried by the law of the Khorân, or the institutes of Tamerlane, as on the common law, or statute law, of this kingdom.

The next question is, whether the Gentû laws justify arbitrary power; and, if he finds any sanctuary there, let him take it, with the cow, in the pagoda. The Gentûs have a law, which positively proscribes in magistrates any idea of will;—a law, with which, or rather with extracts of it, that gentleman himself has furnished us. These people, in many points are governed by their own antient written law, called the *shaster*. Its interpreters and judges are the *pundits*. This law is comprehensive, extending to all the concerns of life, affording principles and maxims, and legal theories, applicable to all cases, drawn from the sources of natural equity, modified by their institutions, full of refinement and subtility of distinction, equal to that of any other law, and has the grand test of all law, that, wherever it has prevailed, the country has been populous, flourishing and happy.

Upon the whole, then, follow him where you will,—let him have eastern or western law, you find every where arbitrary power and peculation of governour proscribed and horribly punished:—more so than I should ever wish to punish any, the most guilty, human creature. And if this be the case, as I hope and trust it has been proved to your lordships, that there is law in these countries, that there is no delegation of power, which exempts a governour from the law, then I say at any rate a British governour is to answer for his conduct, and cannot be justified by wicked examples and profligate practices.

But another thing, which he says, is, that he was left to himself to govern himself by his own practice; that is to say, when he had taken one bribe, he might take another;—when he had robbed one man of his property, he might rob another; when he had imprisoned one man arbitrarily, and extorted money from him, he might do so by another. He resorts at first to the practice of barbarians and usurpers, at last he comes to his own. Now, if your lordships will try him by such maxims and principles, he is certainly clear; for there is no manner of doubt, that there is nothing he has practised once, which he has not practised again; and then the repetition of crimes becomes the means of his indemnity.

The next pleas he urges are not so much in bar of the impeachment, as in extenuation. The first are to be laid by as claims to be made on motion for arrest of judgment, the others as an extenuation or mitigation of his fine. He says, and with a kind of triumph, the ministry of this country have great legal assistance; commercial lights of the greatest commercial city in the world; the greatest generals and officers to guide and direct them in military affairs: whereas I, poor man, was sent almost a school-boy from England, or at least little better;—sent to find my way in that new world as well as I could. I had no men of the law, no legal assistance, to supply my deficiencies. At *Sphingem habebas domi*. Had he not the chief justice, the tamed and domesticated chief justice, who waited on him like a familiar spirit, whom he takes from province to province, his amanuensis at home, his postillion, and riding express abroad?

Such a declaration would in some measure suit persons, who had acted much otherwise, than Mr. Hastings. When a man pleads ignorance in justification of his conduct, it ought to be an humble, modest, unpresuming ignorance;—an ignorance, which may have made him lax and timid in the exercise of his duty;—but an assuming, rash, presumptuous, confident, daring, desperate, and disobedient ignorance heightens every crime, that it accompanies. Mr. Hastings, if through ignorance he left some of the company's orders unexecuted, because he did not understand them, might well say, *I was an ignorant man, and these things were above my capacity.* But when he understands them, and when he declares he will not obey them positively and dogmatically;—when he says, as he has said, and we shall prove it, *that he never succeeds better than when he acts in an utter defiance of those orders*, and sets at nought the laws of his country; I believe this will not be thought the language of an ignorant man. But I beg your lordships' pardon; it is the language of an ignorant man; for no man, who was not full of a bold, determined, profligate ignorance could ever think of such a system of defence. He quitted Westminster school almost a boy. We have reason to regret, that he did not finish his education in that noble seminary, which has given so many luminaries to the church, and ornaments to the state. Greatly it is to be lamented, that he did not go to those universities, [where arbitrary power will I hope never be heard of; but the true principles of religion, of liberty, and law, will ever be inculcated,] instead of studying in the school of Cossim Ally Cawn.

If he had lived with us, he would have quoted the examples of Cicero in his government; he would have quoted several of the sacred and holy prophets, and made *them* his example. His want of learning, profane as well as sacred, reduces him to the necessity of appealing to every name and authority of barbarism, tyranny, and usurpation, that are to be found; and from these he says, *from the practice of one part of Asia, or other, I have taken my rule.* But your lordships will shew him, that in Asia, as well as in Europe, the same law of nations prevails; the same principles are continually resorted to; and the same maxims sacredly held and strenuously maintained; and, however disobeyed, no man suffers from the breach of them, who does not know how and where to complain of that breach;—that Asia is enlightened in that respect as well as Europe; but, if it were totally blinded, that England would send out governours to teach them better; and that he must justify himself to the piety, the truth, the faith of England; and not by having recourse to the crimes and criminals of other countries, to the barbarous tyranny of Asia, or any other part of the world.

I will go further with Mr. Hastings, and admit, that, if there be a boy in the fourth form of Westminster school, or any school in England, who does not know, when these articles are read to him, that he has been guilty of gross and enormous crimes, he may have the shelter of his present plea, as far as it will serve him. There are none of us, thank God, so uninstructed, who have learned our catechisms or the first elements of Christianity, who does not know, that such conduct is not to be justified, and least of all by examples.

There is another topic he takes up more seriously, and as a general rebutter to the charge;—says he, "After a great many of these practices, with which I am charged, parliament appointed me to my trust, and consequently has acquitted me." Has it, my lords? I am bold to say, that the Commons are wholly guiltless of this charge. I will admit, if parliament on a full state of his offences before them, and full examination of those offences, had appointed him to the government, that then the people of India and England would have just reason to exclaim against so flagitious a proceeding. A sense of propriety and decorum might have restrained us from prosecuting. They might have been restrained by some sort of decorum from pursuing him criminally. But the Commons stand before your lordships without shame. First, in their name we solemnly assure your lordships, that we had not in our parliamentary capacity, (and most of us—myself, I can say surely, heard very little, and that in confused rumours,) the slightest knowledge of any one of the acts charged upon this criminal at either of the times of his being appointed to office; and that we were not guilty of the nefarious act of collusion and flagitious breach of trust, with which he presumes obliquely to charge us; but from the moment we knew them, we never ceased to condemn them by reports, by votes, by resolutions; and that we admonished, and declared it to be the duty of the court of directors to take measures for his recall; and when frustrated in the way known to that court we then proceeded to an inquiry. Your lordships know, whether you were better informed. We are, therefore, neither guilty of the precedent crime of colluding with the criminal, nor the subse-

quest indecorum of prosecuting what we had virtually and practically approved.

Secondly; several of his worst crimes have been committed since the last parliamentary renewal of his trust, as appears by the dates in the charge.

But I believe, my lords, the judges—judges to others, grave and weighty counsellours, and assistants to your lordships, will not on reference assert to your lordships, which God forbid, and we cannot conceive, or hardly state in argument, if but for argument, that if one of the judges had received bribes before his appointment to an higher judiciary office, he would not still be open to prosecution.

So far from admitting it as a plea in bar, we charge, and we hope your lordships will find it an extreme aggravation of his offences, that no favours heaped upon him could make him grateful, no renewed and repeated trusts could make him faithful and honest.

We have now gone through most of the general topics.

But,—he is not responsible, as being thanked by the court of directors. He has had the thanks and approbation of the India company for his services. We know too well here, I trust the world knows,—and you will always assert, that a pardon from the crown is not pleadable here, that it cannot bar the impeachment of the Commons; much less a pardon of the East-India Company, though it may involve them in guilt, which might induce us to punish them for such a pardon. If any corporation by collusion with criminals refuse to do their duty in coercing them, the magistrates are answerable.

It is the use, virtue, and efficacy of parliamentary judicial procedure, that it puts an end to this dominion of faction, intrigue, cabal, and clandestine intelligences. The acts of men are put to their proper test, and the works of darkness tried in the face of day—not the corrupted opinions of others on them, but their own intrinsic merits. We charge it as his crime, that he bribed the court of directors to thank him for what they had condemned as breaches of his duty.

The East-India Company, it is true, have thanked him. They ought not to have done it; and it is a reflection upon their character, that they did it. But the directors praise him in the gross, after having condemned each act in detail. His actions are *all*, every one, censured one by one, as they arise. I do not recollect any one transaction, few there are, I am sure, in the whole body of that succession of crimes now brought before you for your judgment, in which the India company ha not censured him. Nay, in one instance pleads their censure in bar of this trial;* f he says "In that censure I have already r ceived my punishment." If, for any oth reasons, they come and say, "We thank yo Sir, for all your services:" To that I answe yes; and *I* would thank him for his service too, if I knew them. But *I* do not;—perhap *they* do. Let them thank him for those se vices. I am ordered to prosecute him for thes crimes. Here therefore we are on a balanc with the India company; and your lordship may perhaps think it some addition to h crimes, that he has found means to obtain th thanks of the India company for the whole c his conduct, at the same time that their record are full of constant, uniform, particular censur and reprobation of every one of those acts, f which he now stands accused.

He says, there is the testimony of India princes in his favour. But do we not kno how seals are obtained in that country? d we not know, how those princes are impose upon? do we not know the subjection an thraldom, in which they are held, and th they are obliged to return thanks for the su ferings, which they have felt? I believe you lordships will think, that there is not, with re gard to some of these princes, a more dreadf thing, that can be said of them, than that h has obtained their thanks.

I understand he has obtained the thanks o the miserable princesses of Oude, whom h has cruelly imprisoned, whose treasure he ha seized, and whose eunuchs he has tortured.†

They thank him for going away. The thank him for leaving them the smallest trif of their subsistence; and I venture to say, i he wanted a hundred more panegyrics, pro vided he never came again among them, h might have them. I understand, that Mah dajee Scindia has made his panegyric too Mahdajee Scindia has not made his panegyri for nothing; for, if your lordships will suffe him to enter into such a justification, we shal prove, that he has sacrificed the dignity o this country, and the interests of all its allies to that prince. We appear here neither wit panegyric, nor with satire; it is for substan tial crimes we bring him before you, an among others for cruelly using persons of th highest rank and consideration in India; and

* See Mr. Hastings's answer to the fir charge.

† A Latin sentence, which was quoted here is omitted in the MS. of the short-hand write —Ed.

when we prove he has cruelly injured them, you will think the panegyrics either gross forgeries, or most miserable aggravations of his offences, since they shew the abject and dreadful state, into which he has driven those people. For, let it be proved, that I have cruelly robbed and maltreated any persons, if I produce a certificate from them of my good behaviour, would it not be a corroborative proof of the terrour, into which those persons are thrown by my misconduct?

My lords, these are, I believe, the general grounds of our charge—I have now closed completely, and I hope, to your lordships' satisfaction, the whole body of history, of which I wished to put your lordships in possession. I do not mean, that many of your lordships may not have known it more perfectly by your own previous inquiries; but bringing to your remembrance the state of the circumstances of the persons, with whom he acted, the persons and power he has abused,—I have gone to the principles he maintains, the precedents he quotes, the laws and authorities, which he refuses to abide by, and those, on which he relies; and at last I have refuted all those pleas, in bar, on which he depends, and for the effect of which he presumes on the indulgence and patience of this country, or on the corruption of some persons in it. And here I close what I had to say upon this subject; wishing and hoping, that, when I open before your lordships the case more particularly, so as to state rather a plan of the proceeding, than the direct proof of the crimes, your lordships will hear me with the same goodness and indulgence I have hitherto experienced; that you will consider, if I have detained you long, it was not with a view of exhausting my own strength, or putting your patience to too severe a trial; but from the sense I feel, that it is the most difficult and the most complicated cause, that was ever brought before any human tribunal. Therefore I was resolved to bring the whole substantially before you. And now, if your lordships will permit me, I will state the method of my future proceeding and the future proceeding of the gentlemen assisting me.

I mean first to bring before you the crimes as they are classed, and are of the same species and genus; and how they mutually arose from one another. I shall first shew, that Mr. Hastings's crimes had root in that, which is the root of all evil, I mean avarice; that avarice and rapacity were the groundwork and foundation of all his other vitious system; that he showed it in setting to sale the native government of the country; in setting to sale the whole landed interest of the country; in setting to sale the British government and his own fellow servants to the basest and wickedest of mankind. I shall then show your lordships, that when, in consequence of such a body of corruption and peculation, he justly dreaded the indignation of his country, and the vengeance of its laws, in order to raise himself a faction embodied by the same guilt and rewarded in the same manner, he has, with a most abandoned profusion, thrown away the revenues of the country to form such a faction here.

I shall next shew your lordships, that, having exhausted the resources of the company, and brought it to extreme difficulties within, he has looked to his *external* resources, as he calls them. He has gone up into the country. I will shew, that he has plundered, or attempted to plunder, every person dependent upon, connected, or allied with this country.

We shall afterwards shew what infinite mischief has followed in the case of Benares, upon which he first laid his hands; next, in the case of the begums of Oude.

We shall then lay before you the profligate system, by which he endeavoured to oppress that country, first by residents, next by spies under the name of British agents; and lastly, that, pursuing his way up to the mountains, he has found out one miserable chief, whose crimes were the prosperity of his country; that him he endeavoured to torture and destroy, I do not mean in his body, but by exhausting the treasures, which he kept for the benefit of his people.

In short, having shown your lordships, that no man, who is in his power, is safe from his arbitrary will; that no man, within or without, friend, ally, rival, has been safe from him; having brought it to this point—if I am not able in my own person immediately to go up into the country, and shew the ramifications of the system (I hope and trust I shall be spared to take my part in pursuing him through both, if I am not) I shall go at least to the root of it; and some other gentleman, with a thousand times more ability than I possess, will take up each separate part in its proper order. And I believe it is proposed by the managers, that one of them shall, as soon as possible, begin with the affair of Benares.

The point I now mean first to bring before your lordships is the corruption of Mr. Hastings, his system of peculation and bribery; and to show your lordships the horrible consequences, which resulted from it: for, at first sight, bribery and peculation do not seem to be

so horrid a matter; they may seem to be only the transferring a little money out of one pocket into another; but I shall show, that by such a system of bribery the country is undone.

I shall inform your lordships in the best manner I can, and afterwards submit the whole, as I do with a cheerful heart and with an easy and assured security, to that justice, which is the security for all the other justice in the kingdom.

TRIAL.—FIFTH DAY,

17*th February*, 1788.

(Mr. Burke.)

My Lords,—The gentlemen who are appointed by the Commons to manage this prosecution, have directed me to inform your lordships, that they have very carefully and attentively weighed the magnitude of the subject, which they bring before you, with the time, which the nature and circumstances of affairs allows for their conducting it.

My lords, on that comparison they are very apprehensive, that, if I should go very largely into a preliminary explanation of the several matters in charge, it might be to the prejudice of an early trial of the substantial merits of each article. We have weighed and considered this maturely. We have compared exactly the time with the matter, and we have found, that we are obliged to do, as all men must do, who would manage their affairs practicably, to make our opinion, of what might be most advantageous to the business, conform to the time that is left to perform it in. We must, as all men must, submit affairs to time, and not think of making time conform to our wishes: and therefore, my lords, I very willingly fall in with the inclinations of the gentlemen, with whom I have the honour to act, to come as soon as possible to close fighting, and to grapple immediately and directly with the corruptions of India; to bring before your lordships the direct articles; to apply the evidence to the articles, and to bring the matter forward for your lordships' decision in that manner, which the confidence we have in the justice of our cause demands from the Commons of Great Britain.

My lords, these are the opinions of those, with whom I have the honour to act, and in their opinions I readily acquiesce. For I am far from wishing to waste any of your lordships' time upon any matter merely through any opinion I have of the nature of the business, when at the same time I find, that in the opinion of others it might militate against the production of its full, proper, and (if I may so say) its immediate effect.

It was my design to class the crimes of the late governour of Bengal—to show their mutual bearings—how they were mutually aided and grew and were formed out of each other. I proposed first of all to show your lordships, that they have their root in that, which is the origin of all evil, avarice and rapacity—to show how that led to prodigality of the public money—and how prodigality of the public money by wasting the treasures of the East-India Company furnished an excuse to the governour-general to break its faith, to violate all its most solemn engagements, and to fall with a hand of stern, ferocious, and unrelenting rapacity upon all the allies and dependencies of the company. But I shall be obliged in some measure to abridge this plan; and as your lordships already possess, from what I had the honour to state on Saturday, a general view of this matter, you will be in a condition to pursue it when the several articles are presented.

My lords, I have to state to-day the root of all these misdemeanours—namely, the pecuniary corruption and avarice, which gave rise and primary motion to all the rest of the delinquencies, charged to be committed by the governour-general.

My lords, pecuniary corruption forms not only, as your lordships will observe in the charges before you, an article of charge by itself, but likewise so intermixes with the whole, that it is necessary to give, in the best manner I am able, a history of that corrupt system, which brought on all the subsequent acts of corruption. I will venture to say, there is no one act, in which tyranny, malice, cruelty, and oppression can be charged, that does not at the same time carry evident marks of pecuniary corruption.

I stated to your lordships on Saturday last the principles, upon which Mr. Hastings governed his conduct in India, and upon which he grounds his defence. These may all be reduced to one short word, *arbitrary power*. My lords, if Mr. Hastings had contended, as other men have often done, that the system of government, which he patronizes, and on which he acted, was a system tending on the whole to the blessing and benefit of mankind, possibly something might be said for him for setting up so wild, absurd, irrational, and wicked a system. Something might be said to qualify the act from the intention; but it is singular in this man, that, at the time he tells you

he acted on the principles of arbitrary power, he takes care to inform you, that he was not blind to the consequences. Mr. Hastings foresaw, that the consequence of this system was corruption. An arbitrary system indeed must always be a corrupt one. My lords, there never was a man, who thought he had no law but his own will, who did not soon find, that he had no end but his own profit. Corruption and arbitrary power are of natural unequivocal generation, necessarily producing one another. Mr. Hastings foresees the abusive and corrupt consequences, and then he justifies his conduct upon the necessities of that system. These are things which are new in the world; for there never was a man, I believe, who contended for arbitrary power (and there have been persons wicked and foolish enough to contend for it) that did not pretend, either that the system was good in itself, or that by their conduct they had mitigated or had purified it; and that the poison by passing through their constitution had acquired salutary properties. But if you look at his defence before the House of Commons, you will see, that that very system, upon which he governed, and under which he now justifies his actions, did appear to himself a system pregnant with a thousand evils and a thousand mischiefs.

The next thing, that is remarkable and singular in the principles, upon which the governour-general acted, is, that when he is engaged in a vitious system which clearly leads to evil consequences, he thinks himself bound to realize all the evil consequences involved in that system. All other men have taken a directly contrary course; they have said, I have been engaged in an evil system, that led indeed to mischievous consequences, but I have taken care by my own virtues to prevent the evils of the system, under which I acted.

We say then, not only that he governed arbitrarily, but corruptly, that is to say, that he was a giver and receiver of bribes, and formed a system for the purpose of giving and receiving them. We wish your lordships distinctly to consider, that he did not only give and receive bribes accidentally, as it happened without any system and design, merely as the opportunity or momentary temptation of profit urged him to it, but that he has formed plans and systems of government for the very purpose of accumulating bribes and presents to himself. This system of Mr. Hastings's government is such a one, I believe, as the British nation in particular will disown; for I will venture to say, that, if there is any one thing, which distinguishes this nation eminently above another, it is, that in its offices at home, both judicial and in the state, there is less suspicion of pecuniary corruption attaching to them, than to any similar offices in any part of the globe, or that have existed at any time; so that he, who would set up a system of corruption, and attempt to justify it upon the principle of utility, that man is staining not only the nature and character of office, but that, which is the peculiar glory of the official and judicial character of this country; and therefore in this house, which is eminently the guardian of the purity of all the offices of this kingdom, he ought to be called eminently and peculiarly to account. There are many things undoubtedly in crimes, which make them frightful and odious; but bribery, filthy hands, a chief governour of a great empire receiving bribes from poor miserable indigent people, this is what makes government itself base, contemptible and odious in the eyes of mankind.

My lords, it is certain, that even tyranny itself may find some specious colour, and appear as more severe and rigid execution of justice. Religious persecution may shield itself under the guise of a mistaken and overzealous piety. Conquest may cover its baldness with its own laurels, and the ambition of the conquerour may be hid in the secrets of his own heart under a veil of benevolence, and make him imagine he is bringing temporary desolation upon a country, only to promote its ultimate advantage and his own glory. But in the principles of that governour, who makes nothing but money his object, there can be nothing of this. There are here none of those specious delusions, that look like virtues, to veil either the governed or the governour. If you look at Mr. Hastings's merits, as he calls them, what are they? did he improve the internal state of the government by great reforms? No such thing: or by a wise and incorrupt administration of justice? No.—Has he enlarged the boundary of our government? No; there are but too strong proofs of his lessening it. But his pretensions to merit are, that he squeezed more money out of the inhabitants of the country than other persons could have done, money got by oppression, violence, extortion from the poor, or the heavy hand of power upon the rich and great.

These are his merits. What we charge as his demerits are all of the same nature; for though there is undoubtedly oppression, breach of faith, cruelty, perfidy, charged upon him,

yet the great ruling principle of the whole, and that, from which you can never have an act free, is money—it is the vice of base avarice, which never is, nor ever appears even to the prejudices of mankind to be, any thing like a virtue. Our desire of acquiring sovereignty in India undoubtedly originated first in ideas of safety and necessity; its next step was a step of ambition. That ambition, as generally happens in conquest, was followed by gains of money; but afterwards there was no mixture at all; it was, during Mr. Hastings's time, altogether a business of money. If he has extirpated a nation, I will not say whether properly or improperly, it is because (says he) you have all the benefit of conquest without expense, you have got a large sum of money from the people, and you may leave them to be governed by whom, and as they will. This is directly contrary to the principles of conquerours. If he has at any time taken any money from the dependencies of the company, he does not pretend, that it was obtained from their zeal and affection to our cause, or that it made their submission more complete; very far from it. He says, they ought to be independent, and all, that you have to do, it is to squeeze money from them. In short money is the beginning, the middle, and the end of every kind of act done by Mr. Hastings—pretendedly for the company, but really for himself.

Having said so much about the origin, the first principle both of that, which he makes his merit, and which we charge as his demerit; the next step is, that I should lay open to your lordships, as clearly as I can, what the sense of his employers, the East-India Company, and what the sense of the legislature itself has been upon those merits and demerits of money.

My lords, the company knowing, that these money transactions were likely to subvert that empire, which was first established upon them, did in the year 1765, send out a body of the strongest and most solemn covenants to their servants, that they should take no presents from the country powers under any name or description, except those things, which were publicly and openly taken for the use of the company, namely *territories, or sums of money*, which might be obtained by treaty. They distinguished such presents, as were taken from any persons privately and unknown to them, and without their authority, from subsidies; and that this is the true nature and construction of their order, I shall contend, and explain afterwards to your lordships. They have said, nothing shall be taken for their private use; for though in that and in every state there may be subsidiary treaties, by which sums of money may be received, yet they forbid their servants, their governours, whatever application they might pretend to make of them, to receive, under any other name or pretence, more than a certain marked simple sum of money, and this not without the consent and permission of the presidency, to which they belong. This is the substance, the principle, and the spirit of the covenants, and will shew your lordships how radicated an evil this of bribery and presents was judged to be.

When these covenants arrived in India, the servants refused at first to execute them; and suspended the execution of them, till they had enriched themselves with presents. Eleven months elasped, and it was not till Lord Clive reached the place of his destination, that the covenants were executed; and they were not executed then without some degree of force. Soon afterwards the treaty was made with the country powers, by which Shuja ul Dowla was re-established in the province of Oude, and paid a sum of £.500,000 to the company for it. It was a public payment, and there was not a suspicion, that a single shilling of private emolument attended it. But whether Mr. Hastings had the example of others or not, their example could not justify his briberies. He was sent there to put an end to all those examples. The company did expressly vest him with that power. They declared at that time, that the whole of their service was totally corrupted by bribes and presents, and by extravagance and luxury, which partly gave rise to them; and these in their turn enabled them to pursue those excesses. They not only reposed trust in the integrity of Mr. Hastings, but reposed trust in his remarkable frugality and order in his affairs, which they considered as things, that distinguished his character. But in his defence we have him quite in another character, no longer the frugal attentive servant bred to business, bred to book-keeping, as all the company's servants are; he now knows nothing of his own affairs, knows not whether he is rich or poor, knows not what he has in the world. Nay, people are brought forward to say, that they know better than he does what his affairs are. He is not like a careful man bred in a counting-house, and by the directors put into an office of the highest trust on account of the regularity of his affairs; he is like one buried in the contemplation of the stars, and knows nothing of the things of this world. It was then on account of an idea of his great integrity, that the company put him into this

situation. Since that he has thought proper to justify himself, not by clearing himself of receiving bribes, but by saying, that no bad consequences resulted from it, and that, if any such evil consequences did arise from it, they arose rather from his inattention to money than from his desire of acquiring it.

I have stated to your lordships the nature of the covenants, which the East-India Company sent out. Afterwards, when they found their servants had refused to execute these covenants, they not only very severely reprehended even a moment's delay in their execution, and threatened the exacting the most strict and rigorous performance of them, but they sent a commission to enforce the observance of them more strongly; and that commission had it specially in charge never to receive presents. They never sent out a person to India without recognizing the grievance, and without ordering, that presents should not be received, as the main fundamental part of their duty, and upon which all the rest depended, as it certainly must: for persons at the head of government should not encourage that by example, which they ought by precept, authority and force, to restrain in all below them. That commission failing, another commission was preparing to be sent out with the same instructions, when an act of parliament took it up: and that act, which gave Mr. Hastings power, did mould in the very first stamina of his power this principle in words the most clear and forcible, that an act of parliament could possibly devise upon the subject. And that act was made not only upon a general knowledge of the grievance, but your lordships will see in the reports of that time, that parliament had directly in view before them the whole of that monstrous head of corruption under the name of presents, and all the monstrous consequences, that followed it.

Now, my lords, every office of trust, in its very nature, forbids the receipt of bribes. But Mr. Hastings was forbidden it, first, by his official situation; next by covenant; and lastly by act of parliament—that is to say, by all the things, that bind mankind, or that can bind them,—first, moral obligation inherent in the duty of their office; next, the positive injunctions of the legislature of the country; and lastly, a man's own private, particular, voluntary act and covenant. These three, the great and only obligations, that bind mankind, all united in the focus of this single point—that they should take no presents.

I am to mark your lordships, that this law and this covenant did consider indirect ways of taking presents—taking them by others, and such like,—directly in the very same light as they considered taking them by themselves. It is perhaps a much more dangerous way, because it adds to the crime a false prevaricating mode of concealing it, and makes it much more mischievous by admitting others into the participation of it. Mr. Hastings has said, and it is one of the general complaints of Mr. Hastings, that he is made answerable for the acts of other men. It is a thing inherent in the nature of his situation. All those, who enjoy a great superintending trust, which is to regulate the whole affairs of an empire, are responsible for the acts and conduct of other men, so far as they had any thing to do with appointing them, or holding them in their places, or having any sort of inspection into their conduct.

But when a governour presumes to remove from their situations those persons, whom the public authority and sanction of the company have appointed, and obtrudes upon them by violence other persons, superseding the orders of his masters, he becomes doubly responsible for their conduct. If the persons he names should be of notorious evil character and evil principles, and if this should be perfectly known to himself, and of public notoriety to the rest of the world, then another strong responsibility attaches on him for the acts of those persons.

Governours, we know very well, cannot with their own hands be continually receiving bribes; for then they must have as many hands, as one of the idols in an Indian temple, in order to receive all the bribes, which a governour-general may receive; but they have them vicarously. As there are many offices, so he has had various officers, for receiving and distributing his bribes; he has had a great many, some white and some black, agents. The white men are loose and licentious; they are apt to have resentments, and to be bold in revenging them. The black men are very secret and mysterious; they are not apt to have very quick resentments, they have not the same liberty and boldness of language, which characterize Europeans; and they have fears too for themselves, which makes it more likely, that they will conceal any thing committed to them by Europeans. Therefore Mr. Hastings had his black agents, not one, two, three, but many, disseminated through the country; no two of them hardly appear to be in the secret of any one bribe. He has had likewise his white agents—they were necessary—a Mr. Larkins and a Mr. Crofts. Mr. Crofts was sub-treasurer, and Mr. Larkins accountant-

general. These were the last persons of all others, that should have had any thing to do with bribes; yet these were some of his agents in bribery. There are few instances in comparison of the whole number of bribes, but there are some, where two men are in the secret of the same bribe. Nay, it appears, that there was one bribe divided into different payments at different times—that one part was committed to one black secretary—another part to another black secretary. So that it is almost impossible to make up a complete body of all his bribery: you may find the scattered limbs, some here and others there; and while you are employed in picking them up, he may escape entirely in a prosecution for the whole.

The first act of his government in Bengal was the most bold and extraordinary, that I believe ever entered into the head of any man, I will say, of any tyrant. It was no more or less than a general (almost exceptless) confiscation, in time of profound peace, of all the landed property in Bengal upon most extraordinary pretences. Strange as this may appear, he did so confiscate it; he put it up to a pretended public, in reality to a private corrupt, auction; and such favoured landholders, as came to it, were obliged to consider themselves as not any longer proprietors of the estates, but to recognize themselves as farmers under government: and even those few, that were permitted to remain on their estates, had their payments raised at his arbitrary discretion; and the rest of the lands were given to farmers general, appointed by him and his committee, at a price fixed by the same arbitrary discretion.

It is necessary to inform your lordships, that the revenues of Bengal are for the most part territorial revenues, great quit rents issuing out of lands. I shall say nothing either of the nature of this property, of the rights of the people to it, or of the mode of exacting the rents, till that great question of revenues, one of the greatest, which we shall have to lay before you, shall be brought before your lordships particularly and specially as an article of charge. I only mention it now as an exemplification of the great principle of corruption, which guided Mr. Hastings's conduct.

When the antient nobility, the great princes (for such I may call them) a nobility, perhaps, as antient as that of your lordships, (and a more truly noble body never existed in that character;) my lords, when all the nobility, some of whom have borne the rank and port of princes, all the gentry, all the freeholders of the country, had their estates in that manner confiscated, that is, either given to themselves to hold on the footing of farmers, or totally confiscated; when such an act of tyranny was done, no doubt, some good was pretended. This confiscation was made by Mr. Hastings, and the lands let to these farmers for five years, upon an idea, which always accompanies his acts of oppression, the idea of *monied merit*. He adopted this mode of confiscating the estates, and letting them to farmers, for the avowed purpose of seeing how much it was possible to take out of them. Accordingly he set them up to this wild and wicked auction, as it would have been, if it had been a real one—corrupt and treacherous, as it was. He set these lands up for the purpose of making that discovery, and pretended, that the discovery would yield a most amazing increase of rent. And for some time it appeared so to do, till it came to the touchstone of experience; and then it was found, that there was a defalcation from these monstrous raised revenues, which were to cancel in the minds of the directors the wickedness of so atrocious, flagitious, and horrid an act of treachery. At the end of five years what do you think was the failure?—No less than £.2,050,000. Then a new source of corruption was opened, that is, how to deal with the balances: for every man, who had engaged in these transactions, was a debtor to government, and the remission of that debt depended upon the discretion of the governour-general. Then the persons, who were to settle the composition of that immense debt, who were to see how much was recoverable, and how much not, were able to favour, or to exact to the last shilling; and there never existed a doubt, but that, not only upon the original cruel exaction, but upon the remission afterwards, immense gains were derived. This will account for the manner, in which those stupendous fortunes, which astonish the world, have been made. They have been made—first, by a tyrannous exaction from the people, who were suffered to remain in possession of their own land as farmers, then by setting the rest to farmers at rents and under hopes, which could never be realized, and then getting money for the relaxation of their debts. But whatever excuse, and however wicked, there might have been for this wicked act, namely, that it carried upon the face of it some sort of appearance of public good, that is to say, that sort of public good, which Mr. Hastings so often professed, of ruining the country for the benefit of the company; yet, in fact, this business of balances is

that *nidus*, in which have been nustled and bred and born all the corruptions of India;—first, by making extravagant demands, and afterwards by making corrupt relaxations of them.

Besides this monstrous failure in consequence of a miserable exaction, by which more was attempted to be forced from the country than it was capable of yielding, and this by way of experiment, when your lordships come to inquire who the farmers-general of the revenue were, you would naturally expect to find them to be the men in the several countries, who had the most interest, the greatest wealth, the best knowledge of the revenue and resources of the country, in which they lived. These would be thought the natural proper farmers-general of each district. No such thing, my lords. They are found in the body of people, whom I have mentioned to your lordships. They were almost all let to Calcutta banyans. Calcutta banyans were the farmers of almost the whole. They sub-delegated to others, who sometimes had sub-delegates under them *ad infinitum*. The whole formed a system together through the succession of black tyrants scattered through the country, in which you at last find the European at the end, sometimes indeed not hid very deep, not above one between him and the farmer, namely, his banyan directly, or some other black person to represent him. But some have so managed the affair, that when you inquire who the farmer is—Was such a one farmer?—No. Cantoo Baboo?—No. Another?—No: at last you find three deep of fictitious farmers, and you find the European gentlemen, high in place and authority, the real farmers of the settlement. So that the zemindars were dispossessed, the country racked and ruined for the benefit of an European, under the name of a farmer: for you will easily judge whether these gentlemen had fallen so deeply in love with the banyans, and thought so highly of their merits and services, as to reward *them* with all the possessions of the great landed interest of the country. Your lordships are too grave, wise and discerning, to make it necessary for me to say more upon that subject. Tell me, that the banyans of English gentlemen, dependants on them at Calcutta, were the farmers throughout, and I believe I need not tell your lordships, for whose benefit they were farmers.

But there is one of these, who comes so nearly, indeed so precisely within this observation, that it is impossible for me to pass him by. Whoever has heard of Mr. Hastings's name, with any knowledge of Indian connections, has heard of his banyan Cantoo Baboo. This man is well known in the records of the company, as his agent for receiving secret gifts, confiscations and presents. You would have imagined, that he would at least have kept *him* out of these farms, in order to give the measure a colour at least of disinterestedness, and to show, that this whole system of corruption and pecuniary oppression was carried on for the benefit of the company. The governour-general and council made an ostensible order, by which no collector, or person concerned in the revenue, should have any connection with these farms. This order did not include the governour-general in the words of it, but more than included him in the spirit of it: because his power to protect a farmer-general in the person of his own servant was infinitely greater than that of any subordinate person. Mr. Hastings, in breach of this order, gave farms to his own banyan. You find him the farmer of great, of vast and extensive farms.

Another regulation, that was made on that occasion, was, that no farmer should have, except in particular cases, which were marked, described, and accurately distinguished, a greater farm than what paid £.10,000 a year to government. Mr. Hastings, who had broken the first regulation by giving any farm at all to his banyan, finding himself bolder, broke the second too, and, instead of £.10,000, gave him farms paying a revenue of £.130,000 a year to government. Men undoubtedly have been known to be under the dominion of their domestics: such things have happened to great men; they never have happened justifiably in my opinion. They have never happened excusably; but we are acquainted sufficiently with the weakness of human nature to know, that a domestic, who has served you in a near office long, and in your opinion faithfully, does become a kind of relation: it brings on a great affection and regard for his interest. Now was this the case with Mr. Hastings and Cantoo Baboo? Mr. Hastings was just arrived at his government, and Cantoo Baboo had been but a year in his service; so that he could not in that time have contracted any great degree of friendship for him. These people do not live in your house; the Hindoo servants never sleep in it; they cannot eat with your servant; they have no second table, in which they can be continually about you, to be domesticated with yourself, a part of your being, as people's servants are to a certain degree. These persons live all abroad; they come at stated hours upon matters of business, and nothing more. But if it had been otherwise, Mr. Hastings's

connection with Cantoo Baboo had been but of a year's standing: he had before served in that capacity Mr. Sykes, who recommended him to Mr. Hastings. Your lordships then are to judge, whether such outrageous violations of all the principles, by which Mr. Hastings pretended to be guided in the settlement of these farms, were for the benefit of this old, decayed, affectionate servant of one year's standing—your lordships will judge of that.

I have here spoken only of the beginning of a great notorious system of corruption; which branched out so many ways, and into such a variety of abuses, and has afflicted that kingdom with such horrible evils from that day to this, that I will venture to say it will make one of the greatest, weightiest, and most material parts of the charge, that is now before you; as I believe I need not tell your lordships, that an attempt to set up the whole landed interest of a kingdom to auction must be attended, not only in that act but every consequential act, with most grievous and terrible consequences.

My lords, I will now come to a scene of peculation of another kind; namely, a peculation by the direct sale of offices of justice; by the direct sale of the successions of families, by the sale of gaurdianships, and trusts, held most sacred among the people of India; by the sale of them, not as before to farmers, not as you might imagine to near relations of the families, but a sale of them to the unfaithful servants of those families, their own perfidious servants, who had ruined their estates, who, if any balances had accrued to the government, had been the cause of those debts. Those very servants were put in power over their estates, their persons and their families by Mr. Hastings for a shameful price. It will be proved to your lordships in the course of this business, that Mr. Hastings has done this in another sacred trust, the most sacred trust a man can have; that is, in the case of those vackiels (as they call them) agents, or attornies, who had been sent to assert and support the rights of their miserable masters before the council-general. It will be proved, that these vackiels were by Mr. Hastings, for a price to be paid for it, put in possession of the very power, situation, and estates of those masters, who sent them to Calcutta to defend them from wrong and violence. The selling offices of justice, the sale of succession in families, of guardianships and other sacred trusts, the selling masters to their servants, and principals to the attornies they employed to defend themselves, were all parts of the same system; and these were the horrid ways, in which he received bribes beyond any common rate.

When Mr. Hastings was appointed in the year 1773 to be governour-general of Bengal, together with Mr. Barwell, General Clavering, Colonel Monson, and Mr. Francis, the company, knowing the former corrupt state of their service (but the whole corrupt system of Mr. Hastings at that time not being known, or even suspected at home) did order them, in discharge of the spirit of the act of parliament, to make an inquiry into all manner of corruptions and malversations in office, without the exception of any persons whatever. Your lordships are to know, that the act did expressly authorize the court of directors to frame a body of instructions, and to give orders to their new servants, appointed under the act of parliament, lest it should be supposed, that they, by their appoinment under the act, could supersede the authority of the directors.

The directors, sensible of the power left in them over their servants by the act of parliament, though their nomination was taken from them, did, agreeably to the spirit and power of that act, give this order.

The council consisted of two parties; Mr. Hastings and Mr. Barwell, who were chosen, and kept there, upon the idea of their local knowledge; and the other three, who were appointed on account of their great parts and known integrity. And I will venture to say, that those three gentlemen did so execute their duty in India in all the substantial parts of it, that they will serve as a shield to cover the honour of England, whenever this country is upbraided in India.

They found a rumour running through the country of great peculations and oppressions. Soon after, when it was known, what their instructions were, and that the council was ready, as is the first duty of all governours, even when there is no express order, to receive complaints against the oppressions and corruptions of government in any part of it—they found such a body (and that body shall be produced to your lordships) of corruption and peculation in every walk, in every department, in every situation of life, in the sale of the most sacred trusts, and in the destruction of the most antient families of the country, as I believe in so short a time never was unveiled since the world began.

Your lordships would imagine, that Mr. Hastings would at least ostensibly have taken some part in endeavouring to bring these corruptions before the public, or that he would at least have acted with some little management

in his opposition. But alas! it was not in his power; there was not one, I think, but I am sure very few, of these general articles of corruption, in which the most eminent figure in the crowd, the principal figure as it were in the piece, was not Mr. Hastings himself. There were a great many others involved; for all departments were corrupted and vitiated. But you could not open a page, in which you did not see Mr. Hastings, or in which you did not see Cantoo Baboo. Either the black or white side of Mr. Hastings constantly was visible to the world in every part of these transactions.

With the other gentlemen, who were visible too, I have at present no dealing. Mr. Hastings, instead of using any management on that occasion, instantly set up his power and authority, directly against the majority of the council, directly against his colleagues, directly against the authority of the East-India company and the authority of the act of parliament, to put a dead stop to all these inquiries. He broke up the council the moment they attempted to perform this part of their duty. As the evidence multiplied upon him, the daring exertions of his power in stopping all inquiries increased continually. But he gave a credit and authority to the evidence by these attempts to suppress it.

Your lordships have heard, that among the body of the accusers of this corruption there was a principal man in the country, a man of the first rank and authority in it, called Nundcomar, who had the management of revenues amounting to £.150,000 a year, and who had, if really inclined to play the small game, with which he has been charged by his accusers, abundant means to gratify himself in playing great ones; but Mr. Hastings has himself given him, upon the records of the company, a character, which would at least justify the council in making some inquiry into charges made by him.

First, he was perfectly competent to make them, because he was in the management of those affairs, from which Mr. Hastings is supposed to have received corrupt emolument. He and his son were the chief managers in those transactions. He was, therefore, perfectly competent to it.—Mr. Hastings has cleared his character; for, though it is true in the contradictions, in which Mr. Hastings has entangled himself, he has abused and insulted him, and particularly after his appearance, as an accuser, yet before this he has given this testimony of him, that the hatred, that had been drawn upon him, and the general obloquy of the English nation, was on account of his attachment to his own prince and the liberties of his country. Be he what he might, I am not disposed, nor have I the least occasion, to defend either his conduct or his memory.

It is to no purpose for Mr. Hastings to spend time in idle objections to the character of Nundcomar. Let him be as bad as Mr. Hastings represents him. I suppose he was a caballing, bribing, intriguing politician, like others in that country, both black and white. We know, associates in dark and evil actions are not generally the best of men; but be that as it will, it generally happens, that they are the best of all discoverers. If Mr. Hastings were the accuser of Nundcomar, I should think the presumptions equally strong against Nundcomar, if he had acted as Mr. Hastings has acted. He was not only competent, but the most competent of all men to be Mr. Hastings's accuser. But Mr. Hastings has himself established both his character, and his competency, by employing him against Mahomed Reza Khân. He shall not blow hot and cold. In what respect was Mr. Hastings better than Mahomed Reza Khân, that the whole rule, principle, and system of accusation and inquiry should be totally reversed in general, nay, reversed in the particular instance the moment he became accuser against Mr. Hastings. Such was the accuser. He was the man, that gave the bribes, and, in addition to his own evidence, offers proof by other witnesses.

What was the accusation? Was the accusation improbable, either on account of the subject-matter, or the actor in it? Does such an appointment as that of Munny Begum in the most barefaced evasion of his orders appear to your lordships a matter, that contains no just presumptions of guilt? so that when a charge of bribery comes upon it, you are prepared to reject it, as if the action were so clear and proper, that no man could attribute it to an improper motive? And, as to the man, is Mr. Hastings a man, against whom a charge of bribery is improbable? Why, he owns it. He is a professor of it. He reduces it into scheme and system. He glories in it. He turns it to merit, and declares it is the best way of supplying the exigencies of the company. Why therefore should it be held improbable?—But I cannot mention this proceeding without shame and horrour.

My lords, when this man appeared as an accuser of Mr. Hastings, if he was a man of bad character, it was a great advantage to Mr. Hastings to be accused by a man of that

description. There was no likelihood of any great credit being given to him.

This person, who, in one of those sales, of which I have already given you some account in the history of the last period of the revolutions of Bengal, had been, or thought he had been, cheated of his money, had made some discoveries, and been guilty of that great irremissible sin in India, the disclosure of peculation. He afterwards came with a second disclosure, and was likely to have odium enough upon the occasion. He directly charged Mr. Hastings with the receipt of bribes amounting together to about £.40,000 sterling, given by himself, on his own account, and that of Munny Begum. The charge was accompanied with every particular, which could facilitate proof or detection, time, place, persons, species, to whom paid, by whom received. Here was a fair opportunity for Mr. Hastings at once to defeat the malice of his enemies, and to clear his character to the world. His course was different. He railed much at the accuser, but did not attempt to refute the accusation. He refuses to permit the inquiry to go on, attempts to dissolve the council, commands his banyan not to attend. The council however goes on, examines to the bottom, and resolves, that the charge was proved, and that the money ought to go to the company. Mr. Hastings then broke up the council, I will not say whether legally or illegally. The company's law council thought he might legally do it; but he corruptly did it, and left mankind no room to judge but that it was done for the screening of his own guilt; for a man may use a legal power corruptly, and for the most shameful and detestable purposes. And thus matters continued, till he commenced a criminal prosecution against this man—this man, whom he dared not meet as a defendant.

Mr. Hastings, instead of answering the charge, attacks the accuser. Instead of meeting the man in front, he endeavoured to go round, to come upon his flanks and rear, but never to meet him in the face upon the ground of his accusation, as he was bound by the express authority of law, and the express injunctions of the directors, to do. If the bribery is not admitted on the evidence of Nundcomar, yet his suppressing it is a crime—a violation of the orders of the court of directors. He disobeyed those instructions; and if it be only for disobedience, for rebellion against his masters (putting the corrupt motive out of the question) I charge him for this disobedience, and especially on account of the principles, upon which he proceeded in it.

Then he took another step; he accused Nundcomar of a conspiracy, which was a way he then and ever since has used, whenever means were taken to detect any of his own iniquities.

And here it becomes necessary to mention another circumstance of history, that the legislature, not trusting entirely to the governour-general and council, had sent out a court of justice to be a counter security against these corruptions, and to detect and punish any such misdemeanours, as might appear. And this court I take for granted has done great services.

Mr. Hastings flew to this court, which was meant to protect in their situations informers against bribery and corruption, rather than to protect the accused from any of the preliminary methods, which must indispensably be used for the purpose of detecting their guilt; he flew to this court, charging this Nundcomar and others with being conspirators.

A man might be convicted as a conspirator, and yet afterwards live; he might put the matter into other hands, and go on with his information; nothing less than *stone-dead* would do the business. And here happened an odd concurrence of circumstances. Long before Nundcomar preferred his charge, he knew, that Mr. Hastings was plotting his ruin, and that for this purpose he had used a man, whom he, Nundcomar, had turned out of doors, called Mohun Persaud. Mr. Hastings had seen papers put upon the board, charging him with this previous plot for the destruction of Nundcomar; and this identical person, Mohun Persaud, whom Nundcomar had charged as Mr. Hastings's associate in plotting his ruin, was now again brought forward, as the principal evidence against him. I will not enter (God forbid I should) into the particulars of the subsequent trial of Nundcomar; but you will find the marks and characters of it to be these. You will find a close connection between Mr. Hastings and the chief justice, which we shall prove. We shall prove, that one of the witnesses, who appeared there, was a person, who had been before, or has since been, concerned with Mr. Hastings in his most iniquitous transactions. You will find what is very odd, that in this trial for forgery, with which this man stood charged, forgery in a private transaction, all the persons, who were witnesses, or parties to it, had been, before or since, the particular friends of Mr. Hastings—in short, persons from that rabble, with whom Mr. Hastings was concerned, both before and since, in various transactions and

negotiations of the most criminal kind. But the law took its course. I have nothing more to say than that the man is gone—hanged justly if you please; and that it did so happen luckily for Mr. Hastings—it so happened, that the relief of Mr. Hastings and the justice of the court, and the resolution never to relax its rigour, did all concur just at a happy nick of time and moment; and Mr. Hastings accordingly had the full benefit of them all.

His accuser was supposed to be what men may be, and yet very competent for accusers—namely, one of his accomplices in guilty actions; one of those persons, who may have a great deal to say of bribes. All, that I contend for, is, that he was in the closest intimacy with Mr. Hastings, was in a situation for giving bribes; and that Mr. Hastings was proved afterwards to have received a sum of money from him, which may be well referred to bribes.

This example had its use in the way, in which it was intended to operate, and in which alone it could operate. It did not discourage forgeries; they went on at their usual rate, neither more nor less. But it put an end to all accusations against all persons in power for any corrupt practice. Mr. Hastings observes, that no man in India complains of him. It is generally true. The voice of all India is stopped. All complaint was strangled with the same cord, that strangled Nundcomar. This murdered not only that accuser, but all future accusation; and not only defeated but totally vitiated and reversed all the ends, for which this country, to its eternal and indelible dishonour, had sent out a pompous embassy of justice to the remotest parts of the globe.

But though Nundcomar was put out of the way by the means, by which *he* was removed, a part of the charge was not strangled with him. Whilst the process against Nundcomar was carrying on before Sir Elijah Impey, the process was continuing against Mr. Hastings in other modes; the receipt of a part of those bribes from Munny Begum to the amount of £.15,000 was proved against him; and that a sum, to the same amount, was to be paid to his associate, Mr. Middleton, as it was proved at Calcutta, so it will be proved at your lordships' bar to your entire satisfaction by records and living testimony now in England. It was indeed obliquely admitted by Mr. Hastings himself.

The excuse for this bribe, fabricated by Mr. Hastings, and taught to Munny Begum, when he found, that she was obliged to prove it against him, was, that it was given to him for his entertainment, according to some pretended custom, at the rate of £.200 sterling a day, whilst he remained at Moorshedabad. My lords, this leads me to a few reflections on the apology or defence of this bribe. We shall certainly I hope render it clear to your lordships, that it was not paid in this manner, as a daily allowance, but given in a gross sum. But take it in his own way, it was no less illegal, and no less contrary to his covenant; but if true under the circumstances, it was an horrible aggravation of his crime. The first thing, that strikes, is, that visits from Mr. Hastings are pretty severe things; and hospitality at Moorshedabad is an expensive virtue, though for provision it is one of the cheapest countries in the universe. No wonder, that Mr. Hastings lengthened his visit, and made it extend near three months. Such hosts and such guests cannot be soon parted. Two hundred pounds a day for a visit! it is at the rate of £.73,000 a year for himself; and as I find his companion was put on the same allowance, it will be £.146,000 a year for hospitality to two English gentlemen.

I believe, that there is not a prince in Europe, who goes to such expensive hospitality of splendour. But that you may judge of the true nature of this hospitality of corruption, I must bring before you the business of the visiter, and the condition of the host, as stated by Mr. Hastings himself, who best knows what he was doing.

He was then at the old capital of Bengal, at the time of this expensive entertainment on a business of retrenchment, and for the establishment of a most harsh, rigorous, and oppressive œconomy. He wishes the task were assigned to spirits of a less gentle kind. By Mr. Hastings's account, he was giving daily and hourly wounds to his humanity in depriving of their sustenance hundreds of persons of the antient nobility of a great fallen kingdom. Yet it was in the midst of this galling duty, it was at that very moment of his tender sensibility, that from the collected morsels plucked from the famished mouths of hundreds of decayed, indigent, and starving nobility, he gorged his ravenous maw with £.200 a day for his entertainment. In the course of all this proceeding your lordships will not fail to observe, he is never corrupt, but he is cruel; he never dines with comfort, but where he is sure to create a famine. He never robs from the loose superfluity of standing greatness; he devours the fallen, the indigent, the necessitous. His extortion is not like the generous rapacity of the princely eagle, who snatches

away the living struggling prey: he is a vulture, who feeds upon the prostrate, the dying and the dead. As his cruelty is more shocking than his corruption, so his hypocrisy has something more frightful than his cruelty. For whilst his bloody and rapacious hand signs proscriptions, and now sweeps away the food of the widow and the orphan, his eyes overflow with tears, and he converts the healing balm, that bleeds from wounded humanity, into a rancorous and deadly poison to the race of man.

Well, there was an end to this tragic entertainment, this feast of Tantalus. The few left on the pension list, the poor remnants, that had escaped, were they paid by his administratrix and deputy Munny Begum? Not a shilling. No fewer than forty-nine petitions, mostly from the widows of the greatest and most splendid houses of Bengal, came before the council, praying in the most deplorable manner for some sort of relief out of the pittance assigned them. His colleagues, General Clavering, Colonel Monson, and Mr. Francis, men, who, when England is reproached for the government of India, will, I repeat it, as a shield be held up between this nation and infamy, did, in conformity to the strict orders of the directors, appoint Mahomed Reza Khân to his old offices—that is, to the general superintendency of the household and the administration of justice, a person, who by his authority might keep some order in the ruling family and in the state. The court of directors authorized them to assure those offices to him, with a salary reduced indeed to £30,000 a year, during his good behaviour. But Mr. Hastings, as soon as he obtained a majority by the death of the two best men ever sent to India, notwithstanding the orders of the court of directors, in spite of the public faith solemnly pledged to Mahomed Reza Khân, without a shadow of complaint, had the audacity to dispossess him of all his offices, and appoint his bribing patroness, the old dancing girl, Munny Begum, once more to the vice-royalty and all its attendant honours and functions.

The pretence was more insolent and shameless than the act. Modesty does not long survive innocence. He brings forward the miserable pageant of the nabob, as he called him, to be the instrument of his own disgrace, and the scandal of his family and government. He makes him to pass by his mother, and to petition us to appoint Munny Begum, once more to the administration of the vice-royalty. He distributed Mahomed Reza Khân's salary as a spoil.

When the orders of the court to restore Mahomed Reza Khân, with their opinion on the corrupt cause of his removal, and a second time to pledge to him the public faith for his continuance, were received, Mr. Hastings, who had been just before a pattern of obedience, when the despoiling, oppressing, imprisoning, and persecuting this man was the object, yet when the order was of a beneficial nature, and pleasant to a well-formed mind, he at once loses all his old principles, he grows stubborn and refractory, and refuses obedience. And in this sullen uncomplying mood he continues, until, to gratify Mr. Francis in an agreement on some of their differences, he consented to his proposition of obedience to the appointment of the court of directors. He grants to his arrangement of convenience what he had refused to his duty, and replaces that magistrate. But mark the double character of the man, never true to any thing but fraud and duplicity. At the same time that he publicly replaces this magistrate, pretending compliance with his colleague, and obedience to his masters, he did in defiance of his own and the public faith, privately send an assurance to the nabob—that is, to Munny Begum, informs her, that he was compelled by necessity to the present arrangement in favour of Mahomed Reza Khân; but that on the first opportunity he would certainly displace him again. And he kept faith with his corruption; and to show how vainly any one sought protection in the lawful authority of this kingdom, he displaced Mahomed Reza Khân from the lieutenancy and controullership, leaving him only the judicial department miserably curtailed.

But does he adhere to his old pretence of freedom to the nabob? No such thing. He appoints an absolute master to him under the name of resident, a creature of his personal favour, Sir J. Doiley, from whom there is not one syllable of correspondence, and not one item of account. How grievous this yoke was to that miserable captive, appears by a paper of Mr. Hastings, in which he acknowledges, that the nabob had offered, out of the £.160,000 payable to him yearly, to give up to the company no less than £.40,000 a year, in order to have the free disposal of the rest. On this all comment is superfluous. Your lordships are furnished with a standard, by which you may estimate his real receipt from the revenue assigned to him, the nature of the pretended residency, and its predatory effects. It will give full credit to what was generally rumoured and believed, that substantially and

beneficially the nabob never received 50 out of the £.160,000 pounds; which will account for his known poverty, and wretchedness, and that of all about him.

Thus by his corrupt traffic of bribes with one scandalous woman he disgraced and enfeebled the native Mahomedan government, captived the person of the sovereign, and ruined and subverted the justice of the country. What is worse, the steps taken for the murder of Nundcomar, his accuser, have confirmed and given sanction not only to the corruptions then practised by the governour-general, but to all, of which he has since been guilty. This will furnish your lordships with some general idea, which will enable you to judge of the bribe, for which he sold the country government.

Under this head you will have produced to you full proof of his sale of a judical office to a person called Khân Jehân Khân, and the modes he took to frustrate all inquiry on that subject upon a wicked and false pretence, that according to his religious scruples he could not be sworn.

The great end and object I have in view is to show the criminal tendency, the mischievous nature, of these crimes, and the means taken to elude their discovery. I am now giving your lordships that general view, which may serve to characterize Mr. Hastings's administration in all the other parts of it.

It was not true in fact (as Mr Hastings gives out) that there was nothing now against him, and that, when he had got rid of Nundcomar and his charge, he got rid of the whole. No such thing. An immense load of charges of bribery remained. They were coming afterwards from every part of the province; and there was no office in the execution of justice, which he was not accused of having sold in the most flagitious manner.

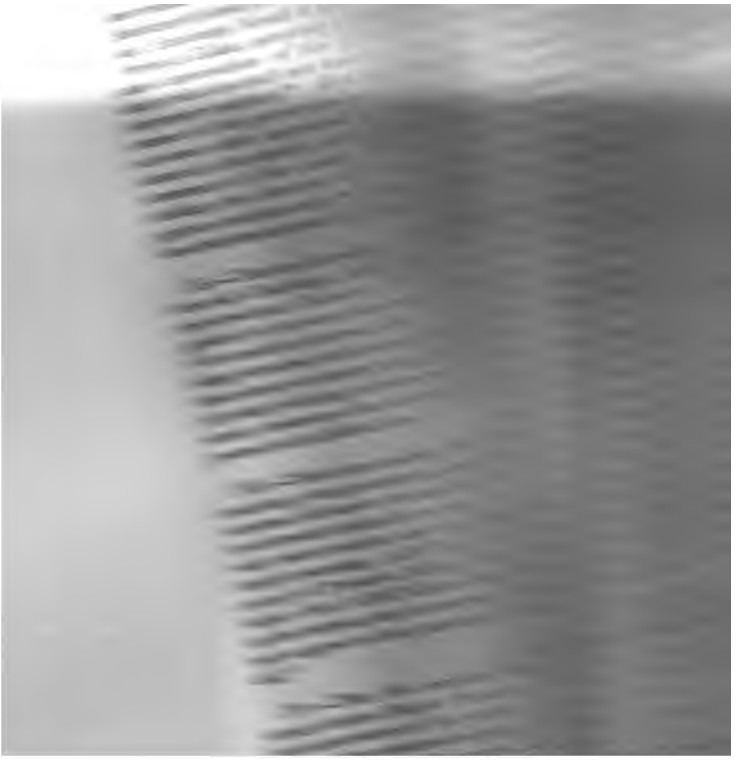
After all this thundering the sky grew calm and clear, and Mr. Hastings sat with recorded peculation, with peculation proved upon oath on the minutes of that very council—he sat at the head of that council and that board where his peculations were proved against him. These were afterwards transmitted, and recorded in the registers of his masters, as an eternal monument of his corruption, and of his high disobedience, and flagitious attempts to prevent a discovery of the various peculations, of which he had been guilty, to the disgrace and ruin of the country committed to his care.

Mr. Hastings, after the execution of Nundcomar, if he had intended to make even a decent and commonly sensible use of it, would naturally have said, this man is justly taken away, who has accused me of these crimes; but as there are other witnesses, as there are other means of a further inquiry, as the man is gone, of whose perjuries I might have reason to be afraid, let us now go into the inquiry. I think he did very ill not to go into the inquiry, when the man was alive; but be it so, that he was afraid of him, and waited till he was removed, why not afterwards go into such an inquiry? Why not go into an inquiry of all the other peculations and charges upon him, which were innumerable, one of which I have just mentioned in particular, the charge of Munny Begum—of having received from her, or her adopted son, a bribe of £.40,000?

Is it fit for a governour to say,—will Mr. Hastings say before this august assembly, I may be accused in a court of justice, I am upon my defence, let all charges remain against me, I will not give you an account? Is it fit, that a governour should sit with recorded bribery upon him at the head of a public board, and the government of a great kingdom, when it is in his power by inquiry to do it away? No—the chastity of character of a man in that situation ought to be as dear to him as his innocence. Nay, more depended upon it. His innocence regarded himself, his character regarded the public justice, regarded his authority, and the respect due to the English in that country. I charge it upon him, that not only did he suppress the inquiry to the best of his power (and it shall be proved) but he did not in any one instance endeavour to clear off that imputation and reproach from the English government. He went further, he never denied hardly any of those charges at the time. They are so numerous, that I cannot be positive; some of them he might meet with some sort of denial, but the most part he did not.

The first thing a man under such an accusation owes to the world is to deny the charge; next to put it to the proof; and lastly to let inquiry freely go on. He did not permit this, but stopped it all in his power. I am to mention some exceptions perhaps hereafter, which will tend to fortify the principle tenfold.

He promised indeed the court of directors (to whom he never denied the facts) a full and liberal explanation of these transactions; which full and liberal explanation he never gave. Many years passed; even parliament took notice of it; and he never gave them a liberal explanation, or any explanation at all, of them. A man may say, I am threatened



with a suit in a court, and it may be very disadvantagous to me, if I disclose my defence. That is a proper answer for a man in common life, who has no particular character to sustain; but is that a proper answer for a governour accused of bribery? that accusation transmitted to his masters, and his masters giving credit to it? Good God! is that a state, in which a man is to say, I am upon the defensive? I am on my guard? I will give you no satisfaction? I have promised it, but I have already deferred it for seven or eight years? Is not this tantamount to a denial?

Mr. Hastings, with this great body of bribery against him, was providentially freed from Nundcomar, one of his accusers; and as good events do not come alone (I think there is some such proverb) it did so happen that all the rest, or a great many of them, ran away. But, however, the recorded evidence of the former charges continued, no new evidence came in; and Mr. Hastings enjoyed that happy repose, which branded peculation, fixed and eternized upon the records of the company, must leave upon a mind conscious of its own integrity.

My lords, I will venture to say, there is no man but owes something to his character. It is the grace, undoubtedly, of a virtuous firm mind often to despise common vulgar calumny; but if ever there is an occasion, in which it does become such a mind to disprove it, it is the case of being charged in high office with pecuniary malversation, pecuniary corruption. There is no case, in which it becomes an honest man—much less a great man—to leave upon record specific charges against him of corruption in his government without taking any one step whatever to refute them.

Though Mr. Hastings took no step to refute the charges, he took many steps to punish the authors of them; and those miserable people, who had the folly to make complaints against Mr. Hastings, to make them under the authority of an act of parliament, under every sanction of public faith, yet in consequence of those charges every person concerned in them has been, as your lordships will see, since his restoration to power, absolutely undone; brought from the highest situation to the lowest misery; so that they may have good reason to repent they ever trusted an English council, that they ever trusted a court of directors, that they ever trusted an English act of parliament, that they ever dared to make their complaints.

And here I charge upon Mr. Hastings, that by never taking a single step to defeat, or detect the falsehood of, any of those charges against him, and by punishing the authors of them, he has been guilty of such a subversion of all the principles of British government as will deserve, and will I dare say meet, your lordships' most severe animadversion.

In the course of this inquiry we find a sort of pause in his peculations, a sort of gap in the history, as if pages were torn out. No longer we meet with the same activity in taking money, that was before found; not even a trace of complimentary presents is to be found in the records during the time, whilst General Clavering, Colonel Monson, and Mr. Francis, formed the majority of the council. There seems to have been a kind of truce with that sort of conduct for a while, and Mr. Hastings rested upon his arms. However, the very moment Mr. Hastings returned to power, peculation began again just at the same instant; the moment we find him free from the compulsion and terrour of a majority of persons otherwise disposed than himself, we find him at his peculation again.

My lords, at this time very serious inquiries had begun in the House of Commons concerning peculation. They did not go directly to Bengal, but they began upon the coast of Coromandel, and with the principal governours there. There was, however, an universal opinion (and justly founded) that these inquiries would go to far greater lengths. Mr. Hastings was resolved then to change the whole course and order of his proceeding. Nothing could persuade him upon any account to lay aside his system of bribery; that he was resolved to persevere in. The point was now to reconcile it with his safety. The first thing he did was to attempt to conceal it, and accordingly we find him depositing very great sums of money in the public treasury through the means of the two persons I have already mentioned, namely, the deputy-treasurer and the accomptant, paying them in and taking bonds for them as money of his own, and bearing legal interest.

This was his method of endeavouring to conceal some at least of his bribes, (for I would not suggest, nor have your lordships to think, that I believe, that these were his only bribes; for there is reason to think there was an infinite number beside;) but it did so happen, that they were those bribes, which he thought might be discovered, some of which he knew were discovered, and all of which he knew might become the subject of a parliamentary inquiry.

Mr. Hastings said, he might have concealed

them for ever. Every one knows the facility of concealing corrupt transactions every where, in India particularly. But this is by himself proved not to be universally true, at least not to be true in his own opinion. For he tells you in his letter from Cheltenham, that he *would* have concealed the nabob's £.100,000, but that the magnitude rendered it easy of discovery. He, therefore, avows an intention of concealment.

But it happens here very singularly, that this sum, which his fears of discovery by *others* obliged him to discover *himself*, happens to be one of those, of which no trace whatsoever appears, except merely from the operation of his own apprehensions. There is no collateral testimony; Middleton knew nothing of it; Anderson knew nothing of it. It was not directly communicated to the faithful Larkins, or the trusty Crofts—which proves indeed the facility of concealment. The fact is, you find the application always upon the discovery. But concealment or discovery is a thing of accident.

The bribes, which I have hitherto brought before your lordships, belong to the first period of his bribery, before he thought of the doctrine, on which he has since defended it. There are many other bribes, which we charge him with having received during this first period, before an improving conversation and close virtuous connection with great lawyers had taught him how to practise bribes in such a manner, as to defy detection, and instead of punishment to plead merit. I am not bound to find order and consistency in guilt; it is the reign of disorder. The order of the proceeding, as far as I am able to trace such a scene of prevarication, direct fraud, falsehood, and falsification of the public accounts, was this.—From bribes he knew he could never abstain; and his then precarious situation made him the more rapacious. He knew, that a few of his former bribes had been discovered, declared, recorded; that for the moment indeed he was secure, because all informers had been punished, and all concealers rewarded. He expected hourly a total change in the council; and that men like Clavering and Monson might be again joined to Francis; that some great avenger should arise from their ashes—"*Exoriare aliquis nostris ex ossibus ultor*,"—and that a more severe investigation, and an infinitely more full display would be made of his robbery, than hitherto had been done. He therefore began in the agony of his guilt to cast about for some device, by which he might continue his offence, if possible, with impunity,—and possibly make a merit of it. He therefore first carefully perused the act of parliament, forbidding bribery, and his old covenant engaging him not to receive presents. And here he was more successful than upon former occasions. If ever an act was studiously and carefully framed to prevent bribery, it is that law of the 13th of the king, which he well observes admits no latitudes of construction, no subterfuge, no escape, no evasion. Yet has he found a defence of his crimes even in the very provisions, which were made for their prevention and their punishment. Besides the penalty, which belongs to every informer, the East-India Company was invested with a fiction of property in all such bribes, in order to drag them with more facility out of the corrupt hands, which held them. The covenant with an exception of £.100 and the act of parliament without any exception, declared that the governour-general and council should receive no presents *for their own use*. He therefore concluded, that the system of bribery and extortion might be clandestinely and safely carried on, provided the party taking the bribes had an inward intention and mental reservation, that they should be privately applied to the company's service, in any way the briber should think fit; and that on many occasions this would prove the best method of supply for the exigencies of their service.

He accordingly formed, or pretended to form, a private bribe exchequer, collateral with, and independent of, the company's public exchequer; though in some cases administered by those, whom for his purposes he had placed in the regular official department. It is no wonder, that he has taken to himself an extraordinary degree of merit. For surely such an invention of finance I believe never was heard of,—an exchequer, wherein extortion was the assessor, fraud the cashier, confusion the accomptant, concealment the reporter, and oblivion the remembrancer: in short, such as I believe no man, but one driven by guilt into phrenzy, could ever have dreamed of.

He treats the official and regular directors with just contempt, as a parcel of mean, mechanical book-keepers. He is an eccentric book-keeper, a Pindarick accomptant. I have heard of "the poet's eye in a fine phrenzy rolling." Here was a revenue, exacted from whom he pleased, at what times he pleased, in what proportions he pleased, through what persons he pleased, by what means he pleased, to be accounted for, or not, at his discretion, and to be applied to what service he thought proper. I do believe your lordships stand astonished at this scheme; and indeed I should be very

loath to venture to state such a scheme at all, however I might have credited it myself, to any sober ears, if, in his defence before the House of Commons and before the lords, he had not directly admitted the fact of taking the bribes or forbidden presents, and had not in those defences, and much more fully in his correspondence with the directors, admitted the fact, and justified it upon these very principles.

As this is a thing so unheard of and unexampled in the world, I shall first endeavour to account, as well as I can, for his motives to it, which your lordships will receive or reject, just as you shall find them tally with the evidence before you. I say, his motives to it; because I contend, that public valid reasons for it he could have none: and the idea of making the corruption of the governour-general a resource to the company never did or could for a moment enter into his thoughts.—I shall then take notice of the juridical constructions, upon which he justifies his acting in this extraordinary manner.—And lastly, show you the concealments, prevarications, and falsehoods, with which he endeavours to cover it. Because wherever you find a concealment you make a discovery. Accounts of money received and paid ought to be regular and official.

He wrote over to the court of directors, that there were certain sums of money he had received, and which were not his own, but that he had received them for their use. By this time his intercourse with gentlemen of the law became more considerable than it had been before. When first attacked for presents, he never denied the receipt of them, or pretended to say they were for public purposes; but upon looking more into the covenants, and probably with better legal advice, he found, that no money could be legally received for his own use; but as these bribes were directly given and received, as for his own use, yet (says he) there was an inward destination of them in my own mind to your benefit, and to your benefit have I applied them.

Now here is a new system of bribery, contrary to law, very ingenious in the contrivance, but, I believe, as unlikely to produce its intended effect upon the mind of man, as any pretence, that was ever used. Here Mr. Hastings changes his ground. Before, he was accused as a peculator; he did not deny the fact; he did not refund the money; he fought it off, he stood upon the defensive, and used all the means in his power to prevent the inquiry. That was the first era of his corruption, a bold, ferocious, plain, downright use of power. In the second, he is grown a little more careful and guarded, the effect of subtilty. He appears no longer as a defendant, he holds himself up with a firm, dignified, and erect countenance, and says, I am not here any longer as a delinquent, a receiver of bribes, to be punished for what I have done wrong, or at least to suffer in my character for it. No, I am a great inventive genius, who have gone out of all the ordinary roads of finance, have made great discoveries in the unknown regions of that science, and have for the first time established the corruption of the supreme magistrate as a principle of resource for government.

There are crimes, undoubtedly, of great magnitude, naturally fitted to create horrour, and that loudly call for punishment, that have yet no idea of *turpitude* annexed to them; but unclean hands, bribery, venality and peculation are offences of turpitude, such as, in a governour, at once debase the person, and degrade the government itself, making it not only *horrible*, but vile and contemptible in the eyes of all mankind. In this humiliation and abjectness of guilt, he comes here not as a criminal on his defence, but as a vast fertile genius, who has made astonishing discoveries in the art of government;—"*Dicam insigne, recens, alio indictum ore*"—who by his flaming zeal and the prolific ardour and energy of his mind has boldly dashed out of the common path, and served his country by new and untrodden ways; and now he generously communicates for the benefit of all future governours, and all future governments, the grand arcanum of his long and toilsome researches. He is the first, but if we do not take good care, he will not be the last, that has established the corruption of the supreme magistrate among the settled resources of the state; and he leaves this principle as a bountiful donation, as the richest deposit, that ever was made in the treasury of Bengal. He claims glory and renown from that, by which every other person since the beginning of time has been dishonoured and disgraced. It has been said of an ambassadour, that he is a person employed to tell lies for the advantage of the court, that sends him. His is patriotic bribery, and public-spirited corruption. He is a peculator for the good of his country. It has been said, that private vices are public benefits. He goes the full length of that position, and turns his private peculation into a public good. This is what you are to thank him for. You are to consider him as a great inventor upon this oc-

casion. Mr. Hastings improves on this principle. He is a robber in gross, and a thief in detail; he steals, he filches, he plunders, he oppresses, he extorts—all for the good of the dear East-India Company,—all for the advantage of his honoured masters the proprietors—all in gratitude to the dear perfidious court of directors, who have been in a practice to heap "insults on his person, slanders on his character, and indignities on his station; who never had the confidence in him, that they had in the meanest of his predecessors."

If you sanction this practice, if, after all you have exacted from the people by your taxes and public imposts, you are to let loose your servants upon them to extort by bribery and peculation what they can from them, for the purpose of applying it to the public service only whenever they please,—this shocking consequence will follow from it. If your governour is discovered in taking a bribe, he will say, What is that to you? mind your business, I intend it for the public service. The man, who dares to accuse him, loses the favour of the governour-general, and the India company. They will say, the governour has been doing a meritorious action, extorting bribes for our benefit, and you have the impudence to think of prosecuting him. So that the moment the bribe is detected, it is instantly turned into a merit; and we shall prove, that this is the case with Mr. Hastings, whenever a bribe has been discovered.

I am now to in form your lordships, that, when he made these great discoveries to the court of directors, he never tells them who gave him the money; upon what occasion he received it; by what hands; or to what purposes he applied it.

When he can himself give no account of his motives, and even declares, that he cannot assign any cause, I am authorized and required to find motives for him—corrupt motives for a corrupt act. There is no one capital act of his administration, that did not strongly imply corruption. When a man is known to be free from all imputation of taking money, and it becomes an established part of his character, the errours, or even crimes, of his administration ought to be, and are in general, traced to other sources. You know it is a maxim. But once convict a man of bribery in any instance, and once by direct evidence, and you are furnished with a rule of irresistible presumption, that every other irregular act, by which unlawful gain may arise, is done upon the same corrupt motive. *Semel malus præsumitur semper malus.* As for good acts candour, charity, justice, oblige me not to assign evil motives, unless they serve some scandalous purpose, or terminate in some manifest evil end, so justice, reason and common sense compel me to suppose, that wicked acts have been done upon motives correspondent to their nature. Otherwise I reverse all the principles of judgment, which can guide the human mind, and accept even the symptoms, the marks and criteria, of guilt, as presumptions of innocence. One that confounds good and evil, is an enemy to the good!

His conduct upon these occasions may be thought irrational. But, thank God, guilt was never a rational thing, it distorts all the faculties of the mind, it perverts them, it leaves a man no longer in the free use of his reason; it puts him into confusion. He has recourse to such miserable and absurd expedients for covering his guilt, as all those, who are used to sit in the seat of judgment, know have been the cause of detection of half the villanies in the world. To argue, that these could not be his reasons, because they were not wise, sound and substantial, would be to suppose what is not true, that bad men were always discreet and able. But I can very well from the circumstances discover motives, which may affect a giddy, superficial, shattered, guilty, anxious, restless mind, full of the weak resources of fraud, craft and intrigue, that might induce him to make these discoveries, and to make them in the manner he has done. Not rational, and well-fitted for their purposes, I am very ready to admit. For God forbid, that guilt should ever leave a man the free undisturbed use of his faculties. For as guilt never rose from a true use of our rational faculties, so it is very frequently subversive of them. God forbid, that prudence, the first of all the virtues, as well as the supreme director of them all, should ever be employed in the service of any of the vices.—No, it takes the lead, and is never found where justice does not accompany it; and, if ever it is attempted to bring it into the service of the vices, it immediately subverts their cause. It tends to their discovery, and, I hope and trust, finally to their utter ruin and destruction.

In the first place I am to remark to your lordships, that the accounts he has given of one of these sums of money are totally false and contradictory. Now there is not a stronger presumption, nor can one want more reason, to judge a transaction fraudulent, than that the accounts given of it are contradictory; and he has given three accounts utterly irreconcileable with each other. He is asked, How came you to take bonds for this money, if it was not your

own? How came you to vitiate and corrupt the state of the company's records, and to state yourself a lender to the company, when in reality you was their debtor? His answer was, I really cannot tell; I have forgot my reasons; the distance of time is so great (namely, a time of about two years or not so long) I cannot give an account of the matter; perhaps I had this motive, perhaps I had another; (but what is the most curious,) perhaps I had none at all, which I can now recollect. You shall hear the account, which Mr. Hastings himself gives, his own fraudulent representation of these corrupt transactions. "For my motives for withholding the several receipts from the knowledge of the council, or of the court of directors, and for taking bonds for part of these sums, and paying others into the treasury as deposits on my own account, I have generally accounted in my letter to the honourable the court of directors of the 22d of May 1782, namely, that I either chose to conceal the first receipts from public curiousity by receiving bonds for the amount, or possibly acted without any studied design, which my memory, at that distance of time, could verify; and that I did not think it worth my care to observe the same means with the rest. It will not be expected, that I should be able to give a more correct explanation of my intentions after a lapse of three years, having declared at the time, that many particulars had escaped my remembrance; neither shall I attempt to add more than the clearer affirmation of the facts implied in that report of them, and such inferences, as necessarily, or with a strong probability, follow them."

My lords, you see, as to any direct explanation, that he fairly gives it up: he has used artifice and stratagem, which he knows will not do; and at last attempts to cover the treachery of his conduct by the treachery of his memory. Frequent applications were made to Mr. Hastings upon this article from the company—gentle hints, *gemitus columbæ*—rather little amorous complaints, that he was not more open and communicative; but all these gentle insinuations were never able to draw from him any further account till he came to England. When he came here, he left not only his memory, but all his notes and references, behind in India. When in India, the company could get no account of them, because he himself was not in England; and when he was in England, they could get no account, because his papers were in India. He then sends over to Mr. Larkins to give that account of his affairs, which he was not able to give himself. Observe, here is a man taking money privately, corruptly, and which was to be sanctified by the future application of it, taking false securities to cover it; and who when called upon to tell whom he got the money from, for what ends, and on what occasion, neither will tell in India, nor can tell in England, but sends for such an account as he has thought proper to furnish.

I am now to bring before you an account of what I think much the most serious part of the effects of his system of bribery, corruption and peculation. My lords, I am to state to you the astonishing and almost incredible means he made use of to lay all the country under contribution, to bring the whole into such dejection as should put his bribes out of the way of discovery. Such another example of boldness and contrivance I believe the world cannot furnish.

I have already shown among the mass of his corruptions, that he let the whole of the lands to farm to the banyans. Next, that he sold the whole Mahomedan government of that country to a woman. This was bold enough, one should think; but without entering into the circumstances of the revenue change in 1772, I am to tell your lordships, that he had appointed six provincial councils, each consisting of many members, who had the ordinary administration of civil justice in that country, and the whole business of the collection of the revenues.

These provincal councils, accounted to the governour-general and council, who in the revenue department had the whole management, controul, and regulation of the revenue. Mr. Hastings did in several papers to the court of directors declare, that the establishment of these provincial councils, which at first he stated only as experimental, had proved useful in the experiment. And on that use, and upon that experiment, he had sent even the plan of an act of parliament to have it confirmed with the last and most sacred authority of this country. The court of directors desired, that, if he thought any other method more proper, he would send it to them for their approbation.

Thus the whole face of the British government, the whole of its order and constitution, remained from 1772 to 1781.—He had got rid sometime before this period, by death, of General Clavering; by death, of Colonel Monson; and by vexation and persecution, and his consequent dereliction of authority, he had shaken off Mr. Francis. The whole council consisting only of himself and Mr. Wheler, he, having the casting vote, was in effect the whole

council; and if ever there was a time, when principle, decency, and decorum rendered it improper for him to do any extraordinary acts without the sanction of the court of directors, that was the time. Mr. Wheler was taken off, despair perhaps rendering the man, who had been in opposition futilely before, compliable. The man is dead. He certainly did not oppose him; if he had, it would have been in vain. But those very circumstances, which rendered it atrocious in Mr. Hastings to make any change, induced him to make this.—He thought, that a moment's time was not to be lost, that other colleagues might come where he might be overpowered by a majority again, and not able to pursue his corrupt plans. Therefore he was resolved—your lordships will remark the whole of this most daring and systematic plan of bribery and peculation,—he resolved to put it out of the power of his council in future to check or controul him in any of his evil practices.

The first thing he did was to form an ostensible council at Calcutta, for the management of the revenues, which was not effectually bound, except it thought fit, to make any reference to the supreme council. He delegated to them—that is, to four covenanted servants—those functions, which by act of parliament and the company's orders were to be exercised by the council-general; he delegated to four gentlemen, creatures of his own, his own powers, but he laid them out to good interest. It appears odd, that one of the first acts of a governour-general, so jealous of his power as he is known to be, as soon as he had all the power in his own hands, should be to put all the revenues out of his own controul. This upon the first view is an extraordinary proceeding. His next step was, without apprizing the court of directors of his intention, or without having given an idea of any such intention to his colleagues while alive, either those, who died in India, or those, who afterwards returned to Europe in one day, in a moment, to annihilate the whole authority of the provincial councils, and delegate the whole power to these four gentlemen. These four gentlemen had for their secretary an agent given them by Mr. Hastings; a name, that you will often hear of—a name, at the sound of which all India turns pale—the most wicked—the most atrocious—the boldest—the most dexterous villain, that ever the rank servitude of that country has produced. My lords, I am speaking with the most assured freedom, because there never was a friend of Mr. Hastings, there never was a foe of Mr. Hastings, there never was any human person, that ever differed on this occasion, or expressed any other idea of Gunga Govin Sing, the friend of Mr. Hastings, whom he intrusted with this important post. But you shall hear, from the account given by themselves, what the council thought of their functions, of their efficiency for the charge, and in whose hands that efficiency really was. I beg, hope, and trust, that your lordships will learn from the persons themselves, who were appointed to execute the office, their opinion of the real execution of it, in order that you may judge of the plan, for which he destroyed the whole English administration in India. "The committee must have a dewan, or executive officer, call him by what name you please. This man in fact has all the revenue, paid at the presidency, at his disposal, and can, if he has any abilities, bring all the renters under contribution. It is little advantage to restrain the committee themselves from bribery or corruption, when their executive officer has the power of practising both undetected.

"To display the arts employed by a native on such occasions would fill a volume. He discovers the secret resources of the zemindars and renters, their enemies and competitors; and by the engines of hope and fear, raised upon these foundations, he can work them to his purpose. The committee, with the best intentions, best abilities, and steadiest application, must after all be a tool in the hands of their dewan."

Your lordships see what the opinion of the council was of their own constitution. You see for what it was made. You see for what purposes the great revenue trust was taken from the council-general, from the supreme government. You see for what purposes the executive power was destroyed. You have it from one of the gentlemen of this commission, at first four in number, and afterwards five, who was the most active efficient member of it. You see it was made for the purpose of being a tool in the hands of Gunga Govin Sing; that integrity, ability, and vigilance, could avail nothing; that the whole country might be laid under contribution by this man, and that he could thus practice bribery with impunity. Thus, your lordships see, the delegation of all the authority of the country, above and below, is given by Mr. Hastings to this Gunga Govin Sing. The screen, the veil spread before this transaction, is torn open by the very people themselves, who are the tools in it. They confess they can do nothing; they know they are instruments in

the hands of Gunga Govin Sing; and Mr. Hastings uses his name and authority to make them such in the hands of the basest, the wickedest, the corruptest, the most audacious and atrocious villain ever heard of. It is to him all the English authority is sacrificed, and four gentlemen are appointed to be his tools and instruments.—Tools and instruments for what? They themselves state, that, if he has the inclination, he has the power and ability to lay the whole country under contribution, that he enters into the most minute secrets of every individual in it, gets into the bottom of their family affairs, and has a power totally to subvert and destroy them; and we shall show upon that head, that he well fulfilled the purposes, for which he was appointed. Did Mr. Hastings pretend to say, that he destroyed the provincial councils for their corruptness or insufficiency, when he dissolved them? No—he says he has no objection to their competency, no charge to make against their conduct, but that he has destroyed them for his new arrangement. And what is his new arrangement? Gunga Govin Sing. Forty English gentlemen were removed from their offices by that change. Mr. Hastings did it, however, very œconomically; for all these gentlemen were instantly put upon pensions, and consequently burdened the establishment with a new charge. Well, but the new council was formed and constituted upon a very œconomical principle also. These five gentlemen, you will have it in proof, with the necessary expenses of their office, were a charge of £.62,000 a year upon the establishment. But for great, eminent, capital services, £.62,000, though a much larger sum than what was thought fit to be allowed for the members of the supreme council itself, may be admitted. I will pass it. It shall be granted to Mr. Hastings, that these pensions, though they created a new burden on the establishment, were all well disposed, provided the council did their duty. But you have heard what they say themselves—they are not there put to do any duty, they can do no duty, their abilities, their integrity avail them nothing, they are tools in the hands of Gunga Govin Sing. Mr. Hastings then has loaded the revenue with £.62,000 a year to make Gunga Govin Sing master of the kingdom of Bengal, Bahar and Orissa. What must the thing to be moved be, when the machinery, when the necessary tools for Gunga Govin Sing, have cost £.62,000 a year to the company? There it is—it is not my representation—not the representation of observant strangers, of good and decent people, that understand the nature of that service, but the opinion of the tools themselves.

Now, did Mr. Hastings employ Gunga Govin Sing without a knowledge of his character? His character was known to Mr. Hastings; it was recorded long before, when he was turned out of another office. During my long residence, says he, in this country, this is the first time I heard of the character of Gunga Govin Sing being infamous. No information I have received, though I have heard *many* people speak ill of him, ever pointed to any particular *act* of infamy committed by Gunga Govin Sing. I have no intimate knowledge of Gunga Govin Sing. What I understand of his character has been from Europeans as well as natives. After—"He had many enemies at the time he was proposed to be employed in the company's service, and not *one advocate* among the natives who had immediate access to myself. I think, therefore, if his character had been such as has been described, the knowledge of it could hardly have failed to have been ascertained to me by the *specific* facts. I have heard him loaded, as I have many others, with general reproaches, but have never heard any one express a doubt *of his abilities*." Now, if any thing in the world should induce you to put the whole trust of the revenues of Bengal, both above and below, into the hands of a single man, and to delegate to him the whole jurisdiction of the country, it must be, that he either was, or at least was reputed to be, a man of integrity. Mr. Hastings does not pretend, that he is reputed to be a man of integrity. He knew that he was not able to contradict the charge brought against him; and that he had been turned out of office by his colleagues, for reasons assigned upon record, and approved by the directors, for malversation in office. He had, indeed, crept again into the Calcutta committee; and they were upon the point of turning him out for malversation, when Mr. Hastings saved them the trouble by turning out the whole committee, consisting of a president and five members. So that in all times, in all characters, in all places, he stood as a man of a bad character and evil repute, though supposed to be a man of great abilities.

My lords, permit me for one moment to drop my representative character here, and to speak to your lordships only as a man of some experience in the world, and conversant with the affairs of men, and with the characters of men.

I do then declare my conviction, and wish

it may stand recorded to posterity, that there never was a *bad man*, that had ability for *good service*. It is not in the nature of such men; their minds are so distorted to selfish purposes, to knavish, artificial, and crafty means of accomplishing those selfish ends, that, if put to any good service, they are poor, dull, helpless. Their natural faculties never have that direction,—they are paralytic on that side;—the muscles, if I may use the expression, that ought to move it, are all dead. They know nothing, but how to pursue selfish ends by wicked and indirect means. No man ever knowingly employed a bad man on account of his abilities, but for evil ends. Mr. Hastings knew this man to be bad; all the world knew him to be bad; and how did he employ him? in such a manner as that he might be controulled by others? A great deal might be said for him, if this had been the case. There might be circumstances, in which such a man might be used in a subordinate capacity. But who ever thought of putting such a man virtually in possession of the whole authority both of the committee and the council-general, and of the revenues of the whole country?

As soon as we find Gunga Govin Sing here we find him employed in the way, in which he was meant to be employed; that is to say, we find him employed in taking corrupt bribes and corrupt presents for Mr. Hastings. Though the committee were tools in his hands, he was a tool in the hands of Mr. Hastings; for he had, as we shall prove, constant, uniform, and close communications with Mr. Hastings. And, indeed, we may be saved a good deal of the trouble of proof; for Mr. Hastings himself, by acknowledging him to be his bribe broker, has pretty well authenticated a secret correspondence between them. For the next great bribe, as yet discovered to be taken by Mr. Hastings, about the time of his great operation of 1781, was the bribe of £.40.000 which we charge to have been privately taken from one of two persons, but from which is not yet ascertained, but paid to him through this flagitious black agent of his iniquities, Gunga Govin Sing. The discovery is made by another agent of his, called Mr. Larkins, one of his white bribe confidants, and by him made accountant-general to the supreme presidency. For this sum, so clandestinely and corruptly taken, he received a bond to himself, on his own account, as for money lent to the company. For, upon the frequent, pressing, tender solicitations of the court of directors, always insinuated to him in a very delicate manner, Mr. Hastings had written to Mr. Larkins to find out, if he could, some of his own bribes; and accordingly Mr. Larkins sent over an account of various bribes; an account, which, even before it comes directly in evidence before you, it will be pleasant to your lordships to read. In this account, under the head *Dinagepore, No.* 1, I find, "*Duplicate copy of the particulars of debts, in which the component parts of sundry sums received on the account of the honourable company of merchants trading to the East-Indies, were received by Mr. Hastings, and paid to the sub-treasurer.*" We find here, *Dinagepore peshcush, four lacks of rupees—cabuleat*, that is, an agreement to pay four lacks of rupees, of which three were received, and one remained in balance at the time this account was made out. All, that we can learn from this account, after all our researches, after all the court of directors could do to squeeze it out of him, is—that he received from Dinagepore, at twelve monthly payments, a sum of about three lacks of rupees, upon an engagement to pay him four;—that is, he received about £.30,000 out of £.40,000 which was to be paid him; and we are told, that he received this sum through the hands of Gunga Govin Sing; and that he was exceedingly angry with Gunga Govin Sing for having kept back or defrauded him of the sum of £.10,000 out of the £.40,000. To keep back from him the fourth part of the whole bribe was very reprehensible behaviour in Gunga Govin Sing, certainly very unworthy of the great and high trust, which Mr. Hastings reposed in his integrity. My lords, this letter tells us, Mr. Hastings was much irritated at Gunga Govin Sing. You will hereafter see how Mr. Hastings behaves to persons, against whom he is irritated for their frauds upon him in their joint concerns. In the mean time Gunga Govin Sing rests with you as a person, with whom Mr. Hastings is displeased on account of infidelity in the honourable trust of bribe-undertaker and manager.

My lords, you are not very much enlightened, I believe, by seeing these words *Dinagepore peshcush*. We find a province, we find a sum of money, we find an agent, and we find a receiver. The *province* is *Dinagepore*, the *agent* is *Gunga Govin Sing*, the *sum* agreed on is £.40,000, and the *receiver* of a part of that is *Mr. Hastings*. This is all that can be seen. Who it was, that gave this sum of money to Mr. Hastings in this manner, does no way appear; it is *murder by persons unknown:* and this is the way, in which Mr. Hastings, after all the reiterated solicitations of parliament, of

the company, and the public, has left the account of this bribe.

Let us, however, now see what was the state of transactions at Dinagepore at that period. For, if Mr. Hastings, in the transactions at that period, did any thing for that country, it must be presumed this money was given for those acts; for Mr. Hastings confesses it was a sum of money corruptly received, but honestly applied. It does not signify much, at first view, from whom he received it; it is enough to fix upon him, that he did receive it. But because the consequences of his bribes make the main part of what I intend to bring before your lordships, I shall beg to state to you, with your indulgence, what I have been able to discover by a very close investigation of the records respecting this business of Dinagepore.

Dinagepore, Rungpore and Edrackpore make a country, I believe, pretty nearly as large as all the northern counties of England, Yorkshire included; it is no mean country, and it has a prince of great, antient, illustrious descent at the head of it, called the rajah of Dinagepore.

I find, that, about the month of July 1780, the rajah of Dinagepore after a long and lingering illness died, leaving an half brother and an adopted son. A litigation respecting the succession instantly arose in the family; and this litigation was of course referred to, and was finally to be decided by, the governour-general in council,—being the ultimate authority, to which the decision of all these questions was to be referred. This cause came before Mr. Hastings, and I find, that he decided the question in favour of the adopted son of the rajah against his half brother. I find, that upon that decision a rent was settled, and a peshcush, or fine, paid.—So that all, that is in this transcation, is fair and above-board; there is a dispute settled; there is a fine paid; there is a rent reserved to the company; and the whole is a fair settlement. But I find along with it very extraordinary acts: for I find Mr. Hastings taking part in favour of the minor, agreeable to the principles of others, and contrary to his own. I find, that he gave the guardianship of this adopted son to the brother of the rannee, as she is called, or the widow of the deceased rajah; and though the hearing and settling of this business was actually a part of the duty of his office, yet I find, that, when the steward of the province of Dinagepore was coming down to represent this case to Mr. Hastings, Mr. Hastings, on pretence, that it would only tend to increase the family dissensions, so far from hearing fully all the parties in this business, not only sent him back, but ordered him to be actually turned out of his office. If then the £.40,000 be the same with the money taken from the rajah in 1780, to which account it seems to refer, (for it was taken in regular payments, beginning July 1780, and ending at the same period in 1781,) it was a sum of money corruptly taken by him as a judge in a litigation of inheritance between two great parties. So that he received the sum of £.40,000 for a judgment; which, whether that judgment was right or wrong, true or false, he corruptly received.

This sum was received, as your lordships will observe, through Gunga Govin Sing. He was the broker of the agreement; he was the person, who was to receive it by monthly instalments, and he was to pay it to Mr. Hastings.—His son was in the office of register-general of the whole country, who had in his custody all the papers, documents, and every thing, which could tend to settle a litigation among the parties.

If Mr. Hastings took this bribe from the rajah of Dinagepore, he took a bribe from an infant of five years old through the hands of the register. That is, the judge receives a bribe through the hands of the keeper of the genealogies of the family, the records, and other documents, which must have had the principal share in settling the question.

This history of this Dinagepore peshcush is the public one received by the company, and which is entered upon the record—but not the private, and probably the true, history of this corrupt transaction.

Very soon after this decision, very soon after this peshcush was given, we find all the officers of the young rajah, who was supposed to have given it, turned out of their employment by Gunga Govin Sing, by the very man, who received the peshcush for Mr. Hastings. We find them all turned out of their employments: we find them all accused, without any appearance or trace in the records of any proof of embezzlement, of neglect in the education of the minor rajah, of the mismanagement of his affairs, or the allotment of an unsuitable allowance. And accordingly to prevent the relations of his adopted mother—to prevent those, who might be supposed to have an immediate interest in the family, from abusing the trust of his education, and the trust of the management of his fortune, Gunga Govin Sing—(for I trust your lordships would not suffer me, if I had a mind, to quote that tool of a thing the committee of revenue, bought at £.62,000 a

year, you would not suffer me to name it, especially when you know all the secret agency of bribes in the hand of Gunga Govin Sing)—this Gunga Govin Sing produces soon after another character, to whom he consigns the custody of the whole family and the whole province.

I will do Mr. Hastings the justice to say that, if he had known there was another man more accomplised in all iniquity than Gunga Govin Sing, he would not have given him the first place in his confidence. But there is another next to him in the country, whom you are to hear of by and by, called Debi Sing. This person in the universal opinion of all Bengal is ranked next to Gunga Govin Sing; and, what is very curious, they have been recorded by Mr. Hastings as rivals in the same virtues.

—— —— Arcades ambo,
Et cantare pares, et respondere parati.

But Mr. Hastings has the happiest modes in the world; these rivals were reconciled on this occasion, and Gunga Govin Sing appoints Debi Sing, superseding all the other officers for no reason whatever upon record. And because like champions they ought to go in pairs, there is an English gentleman, one Mr. Goodlad, whom you will hear of presently, appointed along with him. Absolute stranger to the rajah's family, the first act they do is—to cut off 1000 out of 1600 a month from his allowance. They state (though there was great number of dependants to maintain) that 600 would be enough to maintain him. There appears in the account of these proceedings to be such a flutter about the care of the rajah, and the management of his household; in short, that there never was such a tender guardianship as, always with the knowledge of Mr. Hastings, is exercised over this poor rajah, who had just given, if he did give, £.40,000 for *his own* inheritance, if it was his due—for the inheritance of *others*, if it was not his due. One would think he was entitled to some mercy; but probably, because the money could not otherwise be supplied, his establishment was cut down by Debi Sing and Mr. Goodlad a thousand a month, which is just twelve thousand a year.

When Mr. Hastings had appointed those persons to the guardianship, who had an interest in the management of the rajah's education and fortune, one should have thought, before they were turned out, he would at least have examined whether such a step was proper or not. No, they were turned out, without any such examination; and when I come to inquire into the proceedings Gunga Govin Sing's committee, I do not find, that the new guardians have brought to account one single shilling they received, appointed as they were by that council newly made to superintend all the affairs of the rajah.

There is not one word to be found of an account: Debi Sing's honour, fidelity and disinterestedness, and that of Mr. Goodlad, is sufficient; and that is the way, in which the management and superintendence of one of the greatest houses in that country is given to the guardianship of strangers. And how is it managed? we find Debi Sing in possession of the rajah's family, in possession of his affairs, in the management of his whole zemindary; and in the course of the next year he is to give him in farm the whole of the revenues of these three provinces. Now whether the peshcush was received for the nomination of the rajah, as a bride in judgment, or whether Mr. Hastings got it from Debi Sing, as a bribe in office, for appointing him to the guardianship of a family, that did not belong to him, and for the dominion of three great, and once wealthy, provinces—which is best or worst I shall not pretend to determine. You find the rajah in his possession, you find his education, his household in his possession. The public revenues are in his possession; they are given over to him.

If we look at the records, the letting of these provinces appears to have been carried on by the new committee of revenue, as the course and order of business required it should. But by the investigation into Mr. Hastings's money transactions, the insufficiency and fallacy of these records is manifest beyond a doubt. From this investigation it is discovered, that it was in reality a bargain secretly struck between the governour-general and Debi Sing; and that the committee were only employed in the mere official forms. From the time, that Mr. Hastings new modelled the revenue system, nothing is seen in its true shape. We now know, in spite of the fallacy of these records, who the true grantor was; it will not be amiss to go a little further in supplying their defects, and to inquire a little concerning the grantee. This makes it necessary for me to inform your lordships who Debi Sing is.

[*Mr. Burke read the committee's recommendation of Debi Sing to the governour-general and council: but the copy of the paper alluded to is wanting.*]

* * * * * * *

Here is a choice, here is Debi Sing presented for his knowledge in business, his trust

and fidelity; and that he is a person, against whom no objection can be made. This is presented to Mr. Hastings, by him recorded in the council books, and by him transmitted to the court of directors. Mr. Hastings has since recorded, that he knew this Debi Sing, (though he here publicly authorizes the nomination of him to all that great body of trusts,) that he knew him to be a man completely capable of the most atrocious iniquities, that were ever charged upon man. Debi Sing is appointed to all those great trusts through the means of Gunga Govin Sing, from whom he (Mr. Hastings) had received £.30,000 as a part of a bribe.

Now though it is a large field, though it is a thing, that, I must confess, I feel a reluctance almost in venturing to undertake, exhausted as I am, yet such is the magnitude of the affair, such the evil consequences, that followed from a system of bribery, such the horrible consequences of superseding all the persons in office in the country to give it into the hands of Debi Sing, that though it is the public opinion, and though no man, that has ever heard the name of Debi Sing, does not know, that he was only second to Gunga Govin Sing, yet it is not to my porpose, unless I prove, that Mr. Hastings knew his character at the very time he accepts him as a person, against whom no exception could be made.

It is necessary to inform your lordships who this Debi Sing was, to whom these great trusts were committed, and those great provinces given.

It may be thought, and not unnaturally, that in this sort of corrupt and venal appointment to high trust and office Mr. Hastings has no other consideration than the money he received. But whoever thinks so will be deceived. Mr. Hastings was very far from indifferent to the character of the persons he dealt with. On the contrary, he made a most careful selection; he had a very scrupulous regard to the aptitude of the men for the purposes, for which he employed them; and was much guided by his experience of their conduct in those offices, which had been sold to them upon former occasions.

Except Gunga Govin Sing, (whom, as justice required, Mr. Hastings distinguished by the highest marks of his confidence,) there was not a man in Bengal, perhaps not upon earth, a match for this Debi Sing. He was not an unknown subject; not one rashly taken up as an experiment. He was a tried man; and if there had been one more desperately and abandonedly corrupt, more wildly and flagitiously oppressive, to be found unemployed in India, large as his offers were, Mr. Hastings would not have taken this money from Debi Sing.

Debi Sing was one of those, who in the early stages of the English power in Bengal attached himself to those natives, who then stood high in office. He courted Mahomed Reza Khân, a Mussulman of the highest rank, of the tribe of Koreish, whom I have already mentioned, then at the head of the revenue, and now at the head of the criminal justice of Bengal, with all the supple assiduity, of which those, who possess no valuable art or useful talent, are commonly complete masters. Possessing large funds acquired by his apprenticeship and novitiate in the lowest frauds, he was enabled to lend to this then powerful man, in the several emergencies of his variable fortune, very large sums of money. This great man had been brought down by Mr. Hastings, under the orders of the court of directors, upon a cruel charge to Calcutta. He was accused of many crimes, and acquitted £.220,000 in debt. That is to say, as soon as he was a great debtor, he ceased to be a great criminal.

Debi Sing obtained by his services no slight influence over Mahomed Reza Khân, a person of a character very different from his.

From that connection he was appointed to the farm of the revenue, and inclusively of the government of Purnea, a province of very great extent, and then in a state of no inconsiderable opulence. In this office he exerted his talents with so much vigour and industry, that in a very short time the province was half depopulated, and totally ruined.

The farm, on the expiration of his lease, was taken by a set of adventurers in this kind of traffic from Calcutta. But when the new undertakers came to survey the object of their future operations, and future profits, they were so shocked at the hideous and squalid scenes of misery and desolation, that glared upon them in every quarter, that they instantly fled out of the country, and thought themselves but too happy to be permitted, on the payment of a penalty of twelve thousands pounds, to be released from their engagements.

To give in a few words as clear an idea, as I am able to give, of the immense volume, which might be composed of the vexations, violence, and rapine of that tyrannical administration, the territorial revenue of Purnea, which had been let to Debi Sing at the rate of £.160,000 sterling a year, was with difficulty leased for a yearly sum under £.90,000, and

with all rigour of exaction produced in effect little more than £.60,000, falling greatly below one half of its original estimate.—So entirely did the administration of Debi Sing exhaust all the resources of the province; so totally did his baleful influence blast the very hope and spring of all future revenue.

The administration of Debi Sing was too notoriously destructive not to cause a general clamour. It was impossible, that it should be passed over without animadversion. Accordingly, in the month of September 1772, Mr. Hastings then at the head of the committee of circuit removed him for mal-administration; and he has since publicly declared on record, that he knew him to be capable of all the most horrid and atrocious crimes, that can be imputed to man.

This brand, however, was only a mark for Mr. Hastings to find him out hereafter in the crowd; to identify him for his own; and to call him forth into action, when his virtues should be sufficiently matured for the services, in which he afterwards employed him through his instruments Mr. Anderson and Gunga Govin Sing. In the mean time he left Debi Sing to the direction of his own good genius.

Debi Sing was stigmatized in the company's records, his reputation was gone, but his funds were safe. In the arrangement made by Mr. Hastings in the year 1773, by which provincial councils were formed, Debi Sing became deputy steward, or secretary, (soon in effect and influence principal steward) to the provincial council of Moorshedabad, the seat of the old government, and the first province of the kingdom; and to his charge were committed various extensive and populous provinces, yielding an annual revenue of 120 lacks of rupees, or £.1,500,000. This division of provincial council included Rungpore, Edrackpore, and others, where he obtained such a knowledge of their resources, as subsequently to get possession of them.

Debi Sing found this administration composed mostly of young men, dissipated and fond of pleasure, as is usual at that time of life; but desirous of reconciling those pleasures, which usually consume wealth, with the means of making a great and speedy fortune; at once eager candidates for opulence, and perfect novices in all the roads, that lead to it. Debi Sing commiserated their youth and inexperience, and took upon him to be their guide.

There is a revenue in that country, raised by a tax more productive than laudable. It is an imposition on public prostitutes, a duty upon the societies of dancing girls; those seminaries, from which Mr. Hastings has selected an administrator of justice and governour of kingdoms. Debi Sing thought it expedient to farm this tax; not only because he neglected no sort of gain, but because he regarded it as no contemptible means of power and influence. Accordingly, in plain terms, he opened a legal brothel, out of which he carefully reserved (you may be sure) the very flower of his collection for the entertainment of his young superiours; ladies recommended not only by personal merit, but according to the eastern custom, by sweet and enticing names, which he had given them. For, if they were to be translated, they would sound, —Riches of my Life; Wealth of my Soul; Treasure of Perfection; Diamond of Splendour; Pearl of Price; Ruby of Pure Blood, and other metaphorical descriptions, that, calling up dissonant passions to enhance the value of the general harmony, heightened the attractions of love with the allurements of avarice. A moving seraglio of these ladies always attended his progress, and were always brought to the splendid and multiplied entertainments, with which he regaled his council. In these festivities, whilst his guests were engaged with the seductions of beauty, the intoxications of the most delicious wines of France, and the voluptuous vapour of perfumed India smoke, uniting the vivid satisfactions of Europe with the torpid blandishments of Asia, the great magician himself, chaste in the midst of dissoluteness, sober in the centre of debauch, vigilant in the lap of negligence and oblivion, attended with an eagle's eye the moment for thrusting in business, and at such times was able to carry without difficulty points of shameful enormity, which at other hours he would not so much as have dared to mention to his employers, young men rather careless and inexperienced than intentionally corrupt. Not satisfied with being pander to their pleasures, he anticipated, and was purveyor to, their wants, and supplied them with a constant command of money; and by these means he reigned with an uncontroulled dominion over the province and over its governours.

For you are to understand, that in many things we are very much misinformed with regard to the true seat of power in India. Whilst we were proudly calling India a British government, it was in substance a government of the lowest, basest, and most flagitious of the native rabble; to whom the far greater part of the English, who figured in employment and station, had from their earliest youth been slaves and instruments. Banyans had antici-

pated the period of their power in premature advances of money; and have ever after obtained the entire dominion over their nominal masters.

By these various ways and means Debi Sing contrived to add job to job, employment to employment, and to hold, besides the farms of two very considerable districts, various trusts in the revenue; sometimes openly appearing; sometimes hid two or three deep in false names; emerging into light, or shrouding himself in darkness, as successful, or defeated crimes rendered him bold or cautious. Every one of these trusts was marked with its own fraud; and for one of those frauds committed by him in another name, by which he became deeply in balance to the revenue, he was publicly whipped by *proxy*.

All this while Mr. Hastings kept his eye upon him, and attended to his progress. But, as he rose in Mr. Hastings's opinion, he fell in that of his immediate employers. By degrees, as reason prevailed, and the fumes of pleasure evaporated, the provincial council emerged from their first dependence; and, finding nothing but infamy attending the councils and services of such a man, resolved to dismiss him. In this strait, and crisis of his power, the artist turned himself into all shapes. He offered great sums individually; he offered them collectively; and at last put a carte blanche on the table—All to no purpose! What are you stones?—Have I not men to deal with?—Will flesh and blood refuse me?

When Debi Sing found, that the council had entirely escaped, and were proof against his offers, he left them with a sullen and menacing silence. He applied where he had good intelligence, that these offers would be well received; and that he should at once be revenged of the council, and obtain all the ends, which through them he had sought in vain.

Without hesitation or scruple Mr. Hastings sold a set of innocent officers; sold his fellow servants of the company, entitled by every duty to his protection; sold English subjects, recommended by every tie of national sympathy; sold the honour of the British government itself; without charge, without complaint, without allegation of crime in conduct, or of insufficiency in talents; he sold them to the most known and abandoned character, which the rank servitude of that clime produces. For *him*, he entirely broke and quashed the council of Moorshedabad, which had been the settled government for twelve years, (a long period in the changeful history of India,) at a time too when it had acquired a great degree of consistency, an official experience, a knowledge and habit of business, and was making full amends for early errours.

For now Mr. Hastings, having buried Colonel Monson and General Clavering, and having shaken off Mr. Francis, who retired half dead from office, began at length to respire; he found elbow room once more to display his genuine nature and disposition, and to make amends in a riot and debauch of peculation for the forced abstinence, to which he was reduced during the usurped dominion of honour and integrity.

It was not enough, that the English were thus sacrificed to the revenge of Debi Sing. It was necessary to deliver over the natives to his avarice. By the intervention of bribe brokerage he united the two great rivals in iniquity, who before from an emulation of crimes were enemies to each other, Gunga Govin Sing, and Debi Sing. He negotiated the bribe and the farm of the latter through the former; and Debi Sing was invested in farm for two years with the three provinces of Dinagepore, Edrackpore, and Rungpore; territories, making together a tract of land superiour in dimensions to the northern counties of England, Yorkshire included.

To prevent any thing, which might prove an obstacle on the full swing of his genius, he removed all the restraints, which had been framed to give and ostensible credit, to give some show of official order, to the plans of revenue administration framed from time to time in Bengal. An officer, called a dewan, had been established in the provinces, expressly as a check on the person who should act as farmer-general. This office he conferred along with that of farmer-general on Debi Sing, in order that Debi might become an effectual check upon Sing; and thus these provinces, without inspection, without controul, without law, and without magistrates, were delivered over by Mr. Hastings, bound hand and foot, to the discretion of the man, whom he had before recorded as the destroyer of Purnea; and capable of every the most atrocious wickedness, that could be imputed to man.

Fatally for the natives of India, every wild project and every corrupt sale of Mr. Hastings, and those, whose example he followed, is covered with a pretended increase of revenue to the company. Mr. Hastings would not pocket his bribe of £.40,000 for himself without letting the company in as a sharer and accomplice. For the province of Rungpore, the ob-

ject, to which I mean in this instance to confine your attention, £.7,000 a year was added. But lest this avowed increase of rent should seem to lead to oppression, great and religious care was taken in the covenant, so stipulated with Debi Sing, that *this* increase should not arise from any additional assessment whatsoever on the country, but solely from improvements in the cultivation, and the encouragement to be given to the landholder and husbandman. But as Mr. Hastings's bribe, of a far greater sum, was not guarded by any such provision, it was left to the discretion of the donor in what manner he was to indemnify himself for it.

Debi Sing fixed the seat of his authority at Dinagepore, where as soon as he arrived, he did not lose a moment in doing his duty. If Mr. Hastings can forget his covenant, you may easily believe, that Debi Sing had not a more correct memory; and, accordingly, as soon as he came into the province, he instantly broke every covenant, which he had entered into, as a restraint on his avarice, rapacity and tyranny; which, from the highest of the nobility and gentry to the lowest husbandman, were afterwards exercised, with a stern and unrelenting impartiality, upon the whole people. For notwithstanding the province before Debi Sing's lease was, from various causes, in a state of declension, and in balance for the revenue of the preceding year, at his very first entrance into office he forced from the zemindars or landed gentry an enormous increase of their tribute. They refused compliance. On this refusal he threw the whole body of zemindars into prison; and thus in bonds and fetters compelled them to sign their own ruin by an increase of rent, which they knew they could never realize.

Having thus gotten them under, he added exaction to exaction, so that every day announced some new and varied demand; until exhausted by these oppressions they were brought to the extremity, to which he meant to drive them, the sale of their lands.

The lands held by the zemindars of that country are of many descriptions. The first and most general are those, that pay revenue. The others are of the nature of demesne lands, which are free and pay no rent to government. The latter are for the immediate support of the zemindars and their families, as from the former they derive their influence, authority, and the means of upholding their dignity. The lands of the former description were immediately attached, sequestered and sold for the most trifling consideration. The rent-free lands, the best and richest lands of the whole province were sold—sold for—what do your lordships think?—They were sold for less than one year's purchase,—at less than one year's purchase, at the most underrated value; so that the fee simple of an English acre of rent-free land sold at the rate of seven or eight shillings. Such a sale on such terms strongly indicated the purchaser. And how did it turn out in fact? The purchaser was the very agent and instrument of Mr. Hastings, Debi Sing himself. He made the exaction; he forced the sale; he reduced the rate; and he became the purchaser at less than one year's purchase, and paid with the very money which he had extorted from the miserable venders.

When he had thus sold and seperated these lands, he united the whole body of them, amounting to about £.7,000 sterling a year (but according to the rate of money and living in that country equivalent to a rental in England of £.30,000 a year;) and then having raised in the new letting, as on the sale he had fraudulently reduced, those lands, he reserved them as an estate for himself, or to whomsoever resembling himself Mr. Hastings should order them to be disposed.

The lands, thus sold for next to nothing, left of course the late landholder still in debt. The failure of fund, the rigorous exaction of debt, and the multiplication of new arbitrary taxes next carried off the goods. There is a circumstance attending this business, which will call for your lordships' pity. Most of the landholders or zemindars in that country happened at that time to be women. The sex there is in a state certainly resembling imprisonment, but guarded as a sacred treasure with all possible attention and respect. None of the coarse male hands of the law can reach them; but they have a custom, very cautiously used in all good governments there of employing female bailiffs, or sergeants, in the execution of the law, where that sex is concerned. Guards, therefore, surrounded the houses; and then female sergeants and bailiffs entered into the habitations of these female zemindars, and held their goods and persons in execution, nothing being left but, what was daily threatened, their life and honour. The landholders, even woman of eminent rank and condition, for such the greatest part of the zemindars then were, fled from the antient seats of their ancestors, and left their miserable followers and servants, who in that country are infinitely numerous, without protection, and without bread. The monthly instalment of Mr. Hastings's bribe was become due, and his rapacity must be fed from the vitals of the people.

The zemindars, before their own flight, had the mortification to see all the lands assigned to charitable and to religious uses, the humane and pious foundations of themselves and their ancestors, made to support infirmity and decrepitude, to give feet to the lame, and eyes to the blind, and to effect which they had deprived themselves of many of the enjoyments of life, cruelly sequestered and sold at the same market of violence and fraud, where their demesne possessions and their goods had been before made away with. Even the lands and funds set aside for their funeral ceremonies, in which they hoped to find an end to their miseries and some indemnity of imagination for all the substantial sufferings of their lives: even the very feeble consolations of death were by the same rigid hand of tyranny, a tyranny more consuming than the funeral pile, more greedy than the grave, and more inexorable than death itself, seized and taken to make good the honour of corruption, and the faith of bribery pledged to Mr. Hastings or his instrument.

Thus it fared with the better and middling orders of the people. Were the lower, the more industrious spared?—Alas! as their situation was far more helpless, their oppression was infinitely more sore and grievous; the exactions yet more excessive, the demand yet more vexatious, more capricious, more arbitrary. To afford your lordships some idea of the condition of those, who were served up to satisfy Mr. Hastings's hunger and thirst for bribes, I shall read it to you in the very words of the representative tyrant himself, Rajah Debi Sing. Debi Sing, when he was charged, with a fraudulent sale of the ornaments of gold and silver of women, who according to the modes of that country had starved themselves to decorate their unhappy persons, argued on the improbability of this part of the charge, in these very words:

"It is notorious," says he, "that poverty generally prevails among the husbandmen of Rungpore, more perhaps than in any other parts of the country. They are seldom possessed of any property except at the time they reap their harvest; and at others barely procure their subsistence. And this is the cause, that such numbers of them were swept away by the famine. Their effects are only a little earthenware, and their houses only a handful of straw; the sale of *a thousand* of which would not perhaps produce twenty shillings."

These were the opulent people, from whose superfluities Mr. Hastings was to obtain a gift of £40.000 over and above a large increase of rent, over and above the exactions, by which the farmer must reimburse himself for the advance of the money, by which he must obtain the natural profit of the farm, as well as supply the peculium of his own avarice.

Therefore your lordships will not be surprised at the consequences. All this unhappy race of little farmers, and tillers of the soil, were driven like a herd of cattle by his extortioners, and compelled by imprisonments, by fetters, and by cruel whippings, to engage for more than the whole of their substance or possible acquisition.

Over and above this there was no mode of extortion, which the inventive imagination of rapacity could contrive, that was not contrived and was not put in practice. On its own day your lordships will hear with astonishment, detestation and horrour, the detail of these tyrannous inventions; and it will appear, that the aggregate of these superaded demands amounted to as great a sum as the whole of the compulsory rent, on which they were piled.

The country being in many parts left wholly waste, and in all parts considerably depopulated by the first rigorous, the full rate of the district was exacted from the miserable survivers. Their burdens were increased, as their fellow labourers, to whose joint efforts they were to owe the means of payment, diminished. Driven to make payments, beyond all possible calculation, previous to receipts and above their means, in a very short time they fell into the hands of usurers.

The usurers, who under such a government held their own funds by a precarious tenure, and were to lend to those, whose substance was still more precarious, (to the natural hardness and austerity of that race of men) had additional motives to extortion, and made their terms accordingly. And what were the terms these poor people were obliged to consent to, to answer the bribes and peshcush paid to Mr. Hastings? five, ten, twenty, forty per cent? No! at an interest of six hundred per cent. per annum, payable by the day! A tiller of land to pay six hundred per cent. to discharge the demands of government! What exhaustless fund of opulence could supply this destructive resource of wretchedness and misery? Accordingly, the husbandman ground to powder between the usurer below and the oppressour above, the whole crop of the country was forced at once to market; and the market glutted, overcharged and suffocated, the price of grain fell to the fifth part of its usual value. The crop was then gone, but the debt remained. An universal treasury extent, and process of

execution, followed on the cattle and stock, and was enforced, with more or less rigour, in every quarter. We have it in evidence, that in those sales five cows were sold for not more than seven or eight shillings. All other things were depreciated in the same proportion. The sale of the instruments of husbandry succeeded to that of the corn and stock. Instances there are, where, all other things failing, the farmers were dragged from the court to their houses, in order to see them first plundered, and then burnt down before their faces. It was not a rigorous collection of revenue, it was a savage war made upon the country.

The peasants were left little else than their families and their bodies. The families were disposed of. It is a known observation, that those, who have the fewest of all other worldly enjoyments, are the most tenderly attached to their children and wives. The most tender of parents sold their children at market. The most fondly jealous of husbands sold their wives. The tyranny of Mr. Hastings extinguished every sentiment of father, son, brother, and husband!

I come now to the last stage of their miseries: every thing visible and vendible was seized and sold. Nothing but the bodies remained.

It is the nature of tyranny and rapacity never to learn moderation from the ill success of first oppressions; on the contrary, all oppressours, all men thinking highly of the methods dictated by their nature, attribute the frustration of their desires to the want of sufficient rigour. Then they redouble the efforts of their impotent cruelty; which producing, as they must ever produce, new disappointments, they grow irritated against the objects of their rapacity; and then rage, fury and malice, (implacable because unprovoked) recruiting and reinforcing their avarice, their vices are no longer human. From cruel men they are transformed into savage beasts, with no other vestiges of reason left but what serves to furnish the inventions and refinements of ferocious subtlety for purposes, of which beasts are incapable, and at which fiends would blush.

Debi Sing and his instruments suspected, and in a few cases they suspected justly, that the country people had purloined from their own estates, and had hidden in secret places in the circumjacent deserts, some small reserve of their own grain to maintain themselves during the unproductive months of the year, and to leave some hope for a future season. But the under tyrants knew, that the demands of Mr. Hastings would admit no plea for delay, much less for subtraction of his bribe, and that he would not abate a shilling of it to the wants of the whole human race. These hoards, real or supposed, not being discovered by menaces and imprisonment, they fell upon the last resource, the naked bodies of the people. And here, my lords, began such a scene of cruelties and tortures, as I believe no history has ever presented to the indignation of the world; such as I am sure, in the most barbarous ages, no politic tyranny, no fanatic persecution has ever yet exceeded. Mr. Paterson, the commissioner appointed to inquire into the state of the country, makes his own apology and mine for opening this scene of horrours to you in the following words: "That the punishments, inflicted upon the ryotts both of Rungpore and Dinagepore for non-payment, were in many instances of such a nature, that I would rather wish to draw a veil over them, than shock your feelings by the detail. But that however disagreeable the task may be to myself, it is absolutely necessary for the sake of justice, humanity, and the honour of government that they should be exposed, to be prevented in future."

My lords, they began by winding cords round the fingers of the unhappy freeholders of those provinces, until they clung to and were almost incorporated with one another; and then they hammered wedges of iron between them, until, regardless of the cries of the sufferers, they had bruised to pieces and for ever crippled those poor, honest, innocent, laborious hands, which had never been raised to their mouths, but with a penurious and scanty proportion of the fruits of their own soil; but those fruits (denied to the wants of their own children) have for more than fifteen years past furnished the investment for our trade with China, and been sent annually out, and without recompense, to purchase for us that delicate meal, with which your lordships, and all this auditory, and all this country have begun every day for these fifteen years at their expense. To those beneficent hands, that labour for our benefit, the return of the British government has been cords, and hammers, and wedges. But there is a place where these crippled and disabled hands will act with resistless power. What is it, that they will not pull down, when they are lifted to heaven against their oppressours? Then what can withstand such hands? Can the power, that crushed and destroyed them? Powerful in prayer, let us at least deprecate, and thus endeavour to secure ourselves from, the vengeance, which

these mashed and disabled hands may pull down upon us. My lords, it is an awful consideration. Let us think of it.

But to pursue this melancholy but necessary detail. I am next to open to your lordships, what I am hereafter to prove, that the most substantial and leading yeomen, the responsible farmers, the parochial magistrates, and chiefs of villages, were tied two and two by the legs together; and their tormentors, throwing them with their heads downwards over a bar, beat them on the soles of the feet with ratans, until the nails fell from the toes; and then attacking them at their heads, as they hung downward, as before at their feet, they beat them with sticks and other instruments of blind fury, until the blood gushed out at their eyes, mouths, and noses.

Not thinking, that the ordinary whips and cudgels, even so administered, were sufficient, to others (and often also to the same, who had suffered as I have stated) they applied, instead of ratan and bamboo, whips made of the branches of the bale tree; a tree full of sharp and strong thorns, which tear the skin and lacerate the flesh far worse than ordinary scourges.

For others, exploring with a searching and inquisitive malice, stimulated by an insatiate rapacity, all the devious paths of nature for whatever is most unfriendly to man, they made rods of a plant highly caustic and poisonous, called *bechettea*, every wound of which festers and gangrenes, adds double and treble to the present torture, leaves a crust of leprous sores upon the body, and often ends in the destruction of life itself.

At night, these poor innocent sufferers, these martyrs of avarice and extortion, were brought into dungeons; and in the season when nature takes refuge in insensbility from all the miseries and cares, which wait on life, they were three times scourged, and made to reckon the watches of the night by periods and intervals of torment. They were then led out in the severe depth of winter, which there at certain seasons would be severe to any, to the Indians is most severe and almost intolerable,—they were led out before break of day, and, stiff and sore as they were with the bruises and wounds of the night, were plunged into water; and whilst their jaws clung together with the cold, and their bodies were rendered infinitly more sensible, the blows and stripes were renewed upon their backs; and then, delivering them over to soldiers, they were sent into their farms and villages to discover where a few handfuls of grain might be found concealed, or to extract some loan from the remnants of compassion and courage not subdued in those, who had reason to fear, that their own turn of torment would be next, that they should succeed them in the same punishment, and that their very humanity, being taken as a proof of their wealth, would subject them (as it did in many cases subject them) to the same inhuman tortures. After this circuit of the day through their plundered and ruined villages, they were remanded at night to the same prison; whipped, as before, at their return to the dungeon; and at morning whipped at their leaving it; and then sent as before to purchase, by begging in the day, the reiteration of the torture in the night. Days of menace, insult and extortion;—nights of bolts, fetters, and flagellation succeeded to each other in the same round, and for a long time made up all the vicissitude of life to these miserable people.

But there are persons, whose fortitude could bear their own suffering; there are men, who are hardened by their very pains; and the mind, strengthened even by the torments of the body, rises with a strong defiance against its oppressour. They were assaulted on the side of their sympathy. Children were scourged almost to death in the presence of their parents. This was not enough. The son and father were bound close together, face to face, and body to body, and in that situation cruelly lashed together, so that the blow, which escaped the father, fell upon the son, and the blow, which missed the son, wound over the back of the parent. The circumstances were combined by so subtle a cruelty, that every stroke, which did not excruciate the sense, should wound and lacerate the sentiments and affections of nature.

On the same principle, and for the same ends, virgins, who had never seen the sun, were dragged from the inmost sanctuaries of their houses; and in the open court of justice, in the very place where security was to be sought against all wrong and all violence, (but where no judge or lawful magistrate had long sat, but in their place the ruffians and hangmen of Warren Hastings occupied the bench,) these virgins, vainly invoking heaven and earth, in the presence of their parents, and whilst their shrieks were mingled with the indignant cries and groans of all the people, publicly were violated by the lowest and wickedest of the human race. Wives were torn from the arms of their husbands, and suffered the same flagitious wrongs, which were indeed hid in the bottoms of the dungeons, in which their honour and their liberty were buried together.

Often they were taken out of the refuge of this consoling gloom, stripped naked, and thus exposed to the world, and then cruelly scourged; and in order that cruelty might riot in all the circumstances, that melt into tenderness the fiercest natures, the nipples of their breasts were put between the sharp and elastic sides of cleft bamboos. Here, in my hand, is my authority; for otherwise one would think it incredible. But it did not end there. Growing from crime to crime, ripened by cruelty for cruelty, these fiends, at length outraging sex, decency, nature, applied lighted torches and slow fire—(I cannot proceed for shame and horrour!) these infernal furies planted death in the source of life, and where that modesty, which, more than reason, distinguishes men from beast, retires from the view, and even shrinks from the expression, there they exercised and glutted their unnatural, monstrous, and nefarious cruelty,—there, where the reverence of nature, and the sanctity of justice, dares not to pursue, nor venture to describe their practices.

These, my lords, were sufferings, which we feel all in common, in India and in England, by the general sympathy of our common nature. But there were in that province (sold to the tormentors by Mr. Hastings,) things done, which, from the peculiar manners of India, were even worse than all I have laid before you; as the dominion of manners, and the law of opinion, contribute more to their happiness and misery than any thing in mere sensitive nature can do.

The women thus treated lost their cast. My lords, we are not here to commend or blame the institutions and prejudices of a whole race of people, radicated in them by a long succession of ages, on which no reason or argument, on which no vicissitudes of things, no mixtures of men, or foreign conquest, have been able to make the smallest impression. The aboriginal Gentû inhabitants are all dispersed into tribes or casts; each cast born to an invariable rank, rights, and descriptions of employment; so that one cast cannot by any means pass into another. With the Gentûs certain impurities or disgraces, though without any guilt of the party, infer loss of cast; and when the highest cast, that of Brahmin, which is not only noble but sacred, is lost, the person, who loses it, does not slide down into one lower but reputable—he is wholly driven from all honest society. All the relations of life are at once dissolved. His parents are no longer his parents; his wife is no longer his wife; his children, no longer his, are no longer to regard him as their father. It is something far worse than complete outlawry, complete attainder, and universal excommunication. It is a pollution even to touch him; and if he touches any of his old cast, they are justified in putting him to death. Contagion, leprosy, plague, are not so much shunned. No honest occupation can be followed. He becomes an *Halichore*, if (which is rare) he survives that miserable degradation.

Upon those, whom all the shocking catalogue of tortures I have mentioned could not make to flinch, one of the modes of losing cast for Brahmins, and other principal tribes, was practised. It was, to harness a bullock at the court door, and to put the Brahmin on his back, and to lead him through the towns, with drums beating before him. To intimidate others, this bullock, with drums, the instrument according to their ideas of outrage, disgrace, and utter loss of cast, was led through the country; and, as it advanced, the country fled before it. When any Brahmin was seized he was threatened with this pillory, and for the most part he submitted in a moment to whatever was ordered. What it was may be thence judged. But when no possibility existed of complying with the demand, the people by their cries sometimes prevailed on the tyrants to have it commuted for cruel scourging, which was accepted as mercy. To some Brahmins this mercy was denied, and the act of indelible infamy executed. Of these men one came to the company's commissioner with the tale, and ended with these melancholy words,—"I have suffered this indignity: my cast is lost; my life is a burden to me; I call for justice." He called in vain.

Your lordships will not wonder, that these monstrous and oppressive demands, exacted with such tortures, threw the whole province into despair. They abandoned their crops on the ground. The people, in a body, would have fled out of its confines; but bands of soldiers invested the avenues of the province, and, making a line of circumvallation, drove back those wretches, who sought exile as a relief, into the prison of their native soil. Not suffered to quit the district, they fled to the many wild thickets, which oppression had scattered through it, and sought among the jungles, and dens of tygers, a refuge from the tyranny of Warren Hastings. Not able long to exist here, pressed at once by wild beasts and famine, the same despair drove them back; and seeking their last resource in arms, the most quiet, the most passive, the most timid of the human race, rose up in an universal in-

surrection; and, what will always happen in popular tumults, the effects of the fury of the people fell on the meaner and sometimes the reluctant instruments of the tyranny, who in several places were massacred. The insurrection began in Rungpore, and soon spread its fire to the neighbouring provinces, which had been harassed by the same person with the same oppressions. The English chief in that province had been the silent witness, most probably the abettor and accomplice, of all these horrours. He called in first irregular, and then regular, troops, who by dreadful and universal military execution got the better of the impotent resistance of unarmed and undisciplined despair. I am tired with the detail of the cruelties of peace. I spare you those of a cruel and inhuman war, and of the executions, which, without law or process, or even the shadow of authority, were ordered by the English revenue chief in that province.

In our Indian government, whatever grievance is borne is denied to exist; and all mute despair, and sullen patience, is construed into content and satisfaction. But this general insurrection, which at every moment threatened to blaze out afresh, and to involve all the provinces in its flames, rent in pieces that veil of fraud and mystery, that covers all the miseries of all the provinces. Calcutta rung with it; and it was feared it would go to England. The English chief in the province, Mr. Goodlad, represented it to Mr. Hastings's revenue committee to be (what it was) the greatest and most serious disturbance, that ever happened in Bengal. But, good easy man, he was utterly unable to guess to what cause it was to be attributed. He thought there was some irregularity in the collection; but on the whole judged, that it had little other cause than a general conspiracy of the husbandmen and landholders, who, as Debi Sing's lease was near expiring, had determined not to pay any more revenue.

Mr. Hastings's committee of revenue, whilst these wounds were yet bleeding, and whilst a total failure was threatened in the rents of these provinces, thought themselves obliged to make an inquiry, with some sort of appearance of seriousness, into the causes of it. They looked therefore about them carefully, and chose, what they judged would be most plausible and least effective. They thought, that it was necessary to send a special commissioner into the province; and one, too, whose character would not instantly blast the credit of his mission. They cast their eyes on a Mr. Paterson, a servant of the company, a man of fair character, and long standing in the service. Mr. Paterson was a person known to be of a very cool temper, placid manners, moderate and middle opinions, unconnected with parties and from such a character they looked for (what sometimes is to be expected from it) a compromising, balanced, neutralized, equivocal, colourless, confused report; in which the blame was to be impartially divided between the sufferer and the oppressour; and in which, according to the standing manners of Bengal, he would recommend oblivion as the best remedy; and would end by remarking, that retrospect could have no advantage, and could serve only to irritate and keep alive animosities: and, by this kind of equitable, candid, and judge-like proceeding, they hoped the whole complaint would calmly fade away; the sufferers remain in the possession of their patience, and the tyrant of his plunder. In confidence of this event from this presumed character, Mr. Hastings's committee, in appointing Mr. Paterson their commissioner, were not deficent, in arming him with powers equal to the object of his commission. He was enabled to call before him all accountants, to compel the production of all accounts, to examine all persons; not only to inquire and to report, but to decide and to redress.

Such is the imperfection of human wisdom, that the committee totally failed in their well-laid project. They were totally mistaken in their man. Under that cold outside the commissioner Paterson concealed a firm, manly, and fixed principle; a deciding intellect, and a feeling heart. My lords, he is the son of a gentleman of a venerable age and excellent character in this country, who long filled the seat of chairman of the committee of supply in the House of Commons, and who is now enjoying repose from his long labours in an honourable age. The son, as soon as he was appointed to this commission, was awed by, and dreaded, the consequences. He knew to what temptation he should be exposed, from the known character of Debi Sing, to suppress or to misrepresent facts. He, therefore, took out a letter he had from his father, which letter was the preservation of his character, and destruction of his fortune. This letter he always resorted to in all trying exigencies of his life.

He laid the letter before him, and there was enjoined such a line of integrity, of incorruptness, of bearing every degree of persecution rather than disguising truth, that he went up into the country in a proper frame of mind for doing his duty.

He went to Rungpore strongly impressed with a sense of the great trust, that was placed in him; and he had not the least reason to doubt of full support in the execution of it; as he, with every other white man in Bengal, probably, and every black, except two, was ignorant of the fact, that the governour-general, under whose delegated authority he was sent, had been bribed by the farmer-general of those provinces, and had sold them to his discretion for a great sum of money. If Paterson had known this fact, no human consideration would have induced him, or any other man of common prudence, to undertake an inquiry into the conduct of Debi Sing. Pity, my lords, the condition of an honest servant in Bengal.

But Paterson was ignorant of this dark transaction, and went simply to perform a duty. He had hardly set his foot in the province, when the universal, unquestioned, uncontradicted testimony of the whole people, concurring with the manifest evidence of things, which could not lie; with the face of an utterly ruined, undone, depopulated country, and saved from literal and exceptionless depopulation only by the exhibition of scattered bands of wild, naked, meagre, half-famished wretches, who rent heaven with their cries and howlings, left him no sort of doubt of the real cause of the late tumults. In his first letters, he conveyed his sentiments to the committee with these memorable words,—"In my two reports, I have set forth, in a general manner, the oppressions, which provoked the ryotts to rise. I shall, therefore, not enumerate them now. Every day of my inquiry serves but to confirm the facts. The wonder would have been, if they had not risen: it was not collection, but real robbbery, aggravated by corporal punishment, and every insult of disgrace; and this, not confined to a few, but extended over every individual. Let the mind of man be ever so much inured to servitude, still there is a point where oppressions will rouse it to resistance. Conceive to yourselves, what must be the situation of a ryott, when he sees every thing he has in the world seized, to answer an exaggerated demand, and sold at so low a price, as not to answer one half of that demand: when he finds himself so far from being released, that he remains still subject to corporal punishment. But, what must be his feelings, when his tyrant, seeing that kind of severity of no avail, adds family disgrace and loss of cast. You, gentlemen, who know the reserve of the natives in whatever concerns their women, and their attachment to their casts, must allow the full effect of these prejudices under such circumstances."

He, however, proceeded with steadiness and method; and in spite of every discouragement, which could be thrown in his way by the power, craft, fraud and corruption of the farmer-general Debi Sing, by the collusion of the provincial chief, and by the decay of support from his employers, which gradully faded away, and forsook him, as his occasions for it increased. Under all these, and under many more discouragements and difficulties, he made a series of able, clear, and well-digested reports attended with such evidence as never before, and, I believe, never will again appear, of the internal provincial administration of Bengal; of evils universally understood, which no one was ever so absurd as to contradict, and whose existence was never denied, except in those places where they ought to be rectified, although none before Paterson had the courage to display the particulars. By these reports, carefully collated with the evidence, I have been enabled to lay before you some of the effects, in one province and part of another, of governour Hastings's general system of bribery.

But now appeared, in the most striking light, the good policy of Mr. Hastings's system of 1780, in placing this screen of a committee between him and his crimes. The committee had their lesson. Whilst Paterson is left collecting his evidence, and casting up his accounts in Rungpore, Debi Sing is called up, in seeming wrath, to the capital; where he is received as those, who have robbed and desolated provinces, and filled their coffers with seven hundred thousand pounds sterling, have been usually received at Calcutta, and sometimes in Great Britain. Debi Sing made good his ground in Calcutta, and when he had well prepared his committee, in due time Paterson returns, appears, and reports.

Persons, even less informed than your lordships, are well apprized, that all officers, representing government, and making, in that character, an authorized inquiry, are entitled to a presumptive credit for all their proceedings, and that their reports of facts (where there is no evidence of corruption or malice) are in the first instance to be taken for truth, especially by those, who have authorized the inquiry; and it is their duty to put the burden of proof to the contrary on those, who would impeach or shake the report.

Other principles of policy, and other rules of government, and other maxims of office prevailed in the committee of Mr. Hastings's

devising. In order to destroy that just and natural credit of the officer, and the protection and support they were bound to afford him, they in an instant shift and reverse all the relations, in which the parties stood.

This executive board, instituted for the protection of the revenue and of the people, and which was no court of justice in fact or name, turned their own representative officer, reporting facts according to his duty, into a voluntary accuser, who is to make good his charge at his peril. The farmer-general, whose conduct was not criminally attacked, but appeared as one of the grounds of a public inquiry, is turned into a culprit before a court of justice, against whom every thing is to be juridically made out or not admitted: and the members of an executive board, by usurpation and fraud, erect themselves into judges, bound to proceed by strict rules of law.

By this infamous juggle they took away, as far as in them lay, the credit due to the proceedings of government. They changed the natural situation of proofs. They rejected the depositions of Paterson's witnesses, as not on oath, though they had never ordered or authorized them so to be taken.

They went further, and disabled, in a body, all the deponents themselves, whether on oath or not on oath, by discrediting the whole province, as a set of criminals, who gave evidence to palliate their own rebellion. They administered interrogatories to the commissioner instead of the culprit. They took a base fellow, whom they had themselves ordered their commissioner to imprison for crimes (crimes, charged on him, not by the commissioner, but by themselves,) and made him a complainant and a witness against him in the stupidest and most improbable of all accusations;—namely, that Paterson had menaced him with punishment, if he did not, in so many words, slander and calumniate Debi Sing: and then the committee, seating this wretch as an assessor at their own board, who a few days before would have trembled like a whipped slave at the look of an European, encouraged him to interrogate their own commissioner.

[Note.—*Here* Mr. Burke *was taken ill, and obliged to sit down. After some time* Mr. Burke *again addressed the House.*]

My lords, I am sorry to break the attention of your lordships in such a way. It is a subject, that agitates me. It is long, difficult and arduous; but, with the blessing of God, if I can, to save you any further trouble, I will go through it this day.

I am to tell your lordships, that the next step they took was, after putting Mr. Paterson as an accuser to make good a charge, which he made out but too much to their satisfaction, they changed their battery.

[Note.—Mr. Burke's *illness increased, upon which the House, on the motion of His Royal Highness the Prince of Wales adjourned.*]

TRIAL—SIXTH DAY, 19*th* February 1788.

(Mr. Burke.)

My Lords,—In any great undertaking a failure in the midst of it, even from infirmity, though to be regarded principally as a misfortune, is attended with some slight shadow of disgrace; but your lordships' humanity, and your love of justice, have remedied every thing, and I therefore proceed with confidence this day.

My lords I think (to the best of my remembrance) the House adjourned at the period of time, in which I was endeavouring to illustrate the mischiefs, that happened from Mr. Hastings's throwing off his responsibility by delegating his power to a nominal council, and in reality to a black bad man, a native of the country, of the worst character, that could be found in it; and the consequence of it, in preventing the detection and the punishment of the grossest abuses, that ever were known to be committed in India, or any other part of the world.

My lords, I stated to you, that Mr. Commissioner Paterson was sent into that country. I stated, that he was sent into it with all the authority of government, with power to hear, and not only to hear and to report, but to redress the grievances, which he should find in the country. In short, there was nothing wanting to his power but an honest support. Your lordships will be convinced, that the road to fortune was easy to him. Debi Sing for a favourable report would have given a large sum of money. Your lordships will be convinced, that the committee would not have received such a report as a proof of bribery. They would rather consider him as a man, whose conduct tended to conciliate, and to soften troublesome and difficult matters, and to settle the order of government as soon as possible.

Some of the things contained in his reports I have taken the liberty of laying before your lordships, but very faintly, very imperfectly,

and far short of my materials. I have stated, that the criminal, against whom the commissioner had made his report, instead of being punished by that strong hand of power, which Mr. Hastings has thought proper to use upon other occasions, when he has endeavoured to make princes, or persons in the rank and with the attributes of sovereign princes, feel, whenever they have incurred his private resentments; that this man was put into every situation of offence, or defence, which the most litigious and prevaricating laws, that ever were invented in the very bosom of arbitrary power, could afford him, or by which peculation and power were to be screened from the cries of an oppressed people.

Mr. Paterson, I stated, from being a commissioner directed to report, under the authority of government, to that government, was considered as a voluntary accuser, obliged to make good the articles of his charge. But, I believe, I stated, that he did not long remain in that condition.

I shall now proceed to state to your lordships, that this Debi Sing, fortified by this protection, which was extended even to the lowest of his instruments, thought it high time to assume the superiority, that belonged to a personage, who had the governour-general for his *pensioner*. No longer the sneaking tone of apology;—no longer the modest allegations, that the commissioner was misinformed;—he boldly accuses the representative of English government of forgery in order to destroy him; he criminates and recriminates, and lays about him without mercy.

Things were now in a proper train;—the committee find the cause growing and ripening to their wishes;—answers, replies, objections, and interrogatories, accounts opposed to accounts,—balances now on the one side; now on the other.—Now debtor becomes creditor, and creditor debtor—until the proceedings were grown to the size of volumes, and the whole well fitted to perplex the most simple facts, and to darken the meridian sunshine of public notoriety. They prepared a report for the governour-general and council, suitable to the whole tenour of their proceedings. Here the man, whom they had employed and betrayed, appeared in a new character. Observe their course with him:—First, he was made a commissioner. Then, he was changed from a commissioner to be a voluntary accuser. He now undergoes another metamorphosis;—he appears as a culprit, before Mr. Hastings, on the accusation of the donor of Mr. Hastings's bribes. He is to answer to the accusations of Debi Sing. He is permitted to find materials for his own defence; and he, an old company's servant is to acknowledge it as a favour to be again suffered to go into the province, without authority, without station, without public character, under the discountenance and frowns, and in a manner under prosecution, of the government. As a favour, he is suffered to go again into Rungpore, in hopes of finding among the dejected, harassed, and enslaved race of Hindûs, and in that undone province, men bold enough to stand forward, against all temptations of emolument, and at the risk of their lives, with a firm adherence to their original charge; and, at a time, when they saw *him* an abandoned and persecuted private individual, whom they had just before looked upon as a protecting angel, carrying with him the whole power of a beneficent government, and whom they had applied to as a magistrate of high and sacred authority, to hear the complaints, and to redress the grievances of a whole people.

A new commission of junior servants was, at the same time, sent out to review and re-examine the cause, to inquire into the inquiry, to examine into the examination, to controul the report, to be commissioners upon the commission of Mr. Paterson. Before these commissioners he was made to appear as an accused person, and was put upon his defence, but without the authority, and without the favour, which ought to go with an accused person for the purpose of enabling him to make out such defence.

These persons went down into that country; and after spending a long time in mere matters of form, found they could not do without a representative of Debi Sing, and accordingly they ordered Debi Sing to send up his vakeel.

I forgot to state to your lordships what the condition of Debi Sing was during this proceeding. This man had been ordered to Calcutta on two grounds; one, on the matter of his flagitious misconduct at Rungpore, and, the other, for a great failure in the payment of his stipulated revenue. Under this double accusation he was to be considered, according to the usual mode of proceeding in such cases, as a prisoner; and he was kept, not in the common gaol of Calcutta, not in the prison of the fort, not in that gaol, in which rajah Nundcomar, who had been prime minister of the empire, was confined, but according to the mild ways of that country, where they choose to be mild, and the persons are protected by the official influence of power, under a free custody. He was put under a guard of sepoys, but not confined to his house; he

was permitted to go abroad, where he was daily in conference with those, who were to judge him; and having an address which seldom fails, and a dexterity never wanting to, a man possessed of £.700,000 he converted this guard into a retinue of honour: their bayonets were lowered, their musquets laid aside; they attended him with their side arms, and many with silver verges in their hand, to mark him out rather as a great magistrate attended by a retinue, than a prisoner under guard.

When he was ordered to send a vakeel to defend his conduct, he refused to send him. Upon which the commissioners, instead of saying, "If you will not send your agent, we will proceed in our inquiry without him," (and indeed it was not made necessary by the commission, that he should be there either by vakeel or otherwise, (condescendingly admitted his refusal, and suffered him to come up in person. He accordingly enters the province, attended with his guard, in the manner I have before mentioned, more as a person returning in triumph from a great victory, than as a man under the load of all those enormous charges, which I have stated. He enters the province in this manner; and Mr. Paterson, who saw himself lately the representative of the India company (an old servant of the company is a great man in that country,) was now left naked, destitute, without any mark of official situation or dignity. He was present, and saw all the marks of imprisonment turned into marks of respect and dignity to this consummate villain, whom I have the misfortune of being obliged to introduce to your lordships' notice. Mr. Paterson, seeing the effect of the proceeding every where, seeing the minds of the people broken, subdued and prostrate under it, and that so far from having the means of detecting the villanies of this insolent criminal, appearing as a magistrate, he had not the means of defending even his own innocence, because every kind of information fled and was annihilated before him, represented to these young commissioners, that this appearance of authority tended to strike terrour into the hearts of the natives, and to prevent his receiving justice. The council of Calcutta took this representation into their deliberate consideration; they found, that it was true, that, if he had such an attendance any longer in this situation, (and a large attendance it was, such as the chancellour of this kingdom, or the speaker of the House of Commons does not appear with,) it would have an evil appearance. On the other hand, say they, "*if he should be left under a guard, the people would consider him as under disgrace.*" They therefore took a middle way, and ordered the guard not to attend him with fixed bayonets, which had the appearance of the custody of a prisoner, but to lower their musquets, and unfix their bayonets.

The next step of these commissioners is to exclude Mr. Paterson from all their deliberations; and, in order that both parties might be put on an equality, one would natually conclude, that the culprit Debi Sing was likewise excluded. Far from it: he sat upon the bench. Need I say any more upon this subject? The protection followed.

In this situation, Mr. Paterson wrote one of the most pathetic memorials, that ever was penned, to the council of Calcutta, submitting to his hard fate, but standing inflexibly to his virtue, that brought it upon him. To do the man justice, he bore the whole of this persecution like an hero. He never tottered in his principles, nor swerved to the right, or to the left, from the noble cause of justice and humanity, in which he had been engaged; and when your lordships come to see his memorials you will have reason to observe, that his abilities are answerable to the dignity of his cause, and make him worthy of every thing that he had the honour to suffer for it.

To cut short the thread of this shocking series of corruption, oppression, fraud and chicanery, which lasted for upwards of four years; Paterson remains without employment:—The inhabitants of great provinces, whose substance and whose blood was sold by Mr. Hastings, remain without redress.—And the purchaser Debi Sing, that corrupt, iniquitous and bloody tyrant, instead of being proceeded against by the committee in a civil suit for retribution to the sufferers, is handed over to the false semblance of a trial, on a criminal charge, before a Mahomedan judge,—an equal judge, however. The judge was Mahomed Reza Khân, his original patron, and the author of all his fortunes;—a judge, who depends on him, as a debtor depends upon his creditor. To that judge is he sent, without a distinct charge, without a prosecutor, and without evidence. The next ships will bring you an account of his honourable acquittal.

I have stated before, that I considered Mr. Hastings as responsible for the characters of the people he employed; doubly responsible, if he *knew* them to be bad. I, therefore, charge him with putting in situations, in which any evil may be committed, persons of known evil characters.

My lords, I charge him, as chief governour,

with destroying the institutions of the country, which were designed to be, and ought to have been, controuls upon such a person as Debi Sing.

An officer, called dewan or steward of the country, had always been placed as a controul on the farmer;—but that no such controul should in fact exist,—that he, Debi Sing, should be let loose to rapine, slaughter and plunder in the country, both offices were conferred on him. Did Mr. Hastings vest these offices in him? No; but, if Mr. Hastings had kept firm to the duties, which the act of parliament appointed him to execute, all the revenue appointments must have been made by him: but, instead of making them himself, he appointed Gunga Govin Sing to make them, and for that appointment, and for the whole train of subordinate villany, which followed the placing iniquity in the chief seat of government, Mr. Hastings is answerable.—He is answerable, I say, first, for destroying his own legal capacity; and next, for destroying the legal capacity of the council, not one of whom ever had, or could have, any true knowledge of the state of the country from the moment he buried it in the gulf of mystery, and of darkness, under that collected heap of villany, Gunga Govin Sing. From that moment he destroyed the power of government, and put every thing into his hands; for this he is answerable.

The provincial councils consisted of many members, who, though they might unite in some small iniquities perhaps, could not possibly have concealed from the public eye the commission of such acts as these. Their very numbers, their natural competitions, the contentions, that must have arisen among them, must have put a check at least, to such a business.

And, therefore, Mr. Hastings having destroyed every check and controul above and below,—having delivered the whole into the hands of Gunga Govin Sing, for all the iniquities of Gunga Govin Sing he is responsible.

But he did not know Debi Sing, whom he employed. I read yesterday, and trust it is fresh in your lordships' remembrance, that Debi Sing was presented to him by that set of tools, as they call themselves, who acted, as they themselves tell us they must act, entirely and implicitly under Gunga Govin Sing;—that is to say, by Gunga Govin Sing himself, the confidential agent of Mr. Hastings.

Mr. Hastings is further responsible, because he took a bribe of £.40,000 from some person in power in Dinagepore and Rungpore, the countries, which were ravaged in this manner, through the hands of Gunga Govin Sing,—through the medium of that very person, whom he had appointed to exercise all the authorities of the supreme council above, and of all subordinate councils below. Having, therefore, thus appointed a council of tools in the hands of Gunga Govin Sing, at the expense of £.62,000 a year, to supersede all the English provincial authorities; having appointed them for the purpose of establishing a bribe factor-general, a general receiver and agent of bribes, through all that country; Mr. Hastings is responsible for all the consequences of it.

I have thought it necessary, and absolutely necessary it is, to state what the consequence of this clandestine mode of supplying the company's exigencies was. Your lordships will see, that their exigencies are to be supplied by the ruin of the landed interest of a province, the destruction of the husbandmen, and the ruin of all the people in it. This is the consequence of a general bribe broker, an agent like Gunga Govin Sing, superseding all the powers and controuls of government.

But Mr. Hastings has not only reduced bribery to a system of government practically, but theoretically. For when he despaired any longer of concealing his bribes from the penetrating eye of parliament, then he took another mode, and declared, as your lordships will see, that it was the best way of supplying the necessities of the East-India Company in the pressing exigencies of their affairs; that thus a relief to the company's affairs might be yielded, which in the common ostensible mode, and under the ordinary forms of government, and publicly, never would be yielded to them. So that bribery with him became a supplement to exaction.

The best way of showing, that a theoretical system is bad, is to show the practical mischiefs, that it produces; because a thing may look specious in theory, and yet be ruinous in practice; a thing may look evil in theory, and yet be in its practice excellent. Here a thing in theory, stated by Mr. Hastings to be productive of much good, is in reality productive of all those horrible mischiefs I have stated. That Mr. Hastings well knew this, appears from an extract of the Bengal Revenue Consultations, 21st January 1785, a little before he came away.

Mr. Hastings says, " I entirely acquit Mr. Goodlad of all the charges: he has disproved them. It was the duty of the accuser to prove them. Whatever crimes may be established against rajah Debi Sing, it does not follow, that Mr. Goodlad was responsible for them: and I so well know the character and abilities

of rajah Debi Sing, that I can easily conceive, that it was in his power both to commit the enormities, which are laid to his charge, and to conceal the grounds of them from Mr. Goodlad, who had no authority but that of receiving the accounts and rents of the district from rajah Debi Sing, and occasionally to be the channel of communication between him and the committee."

We shall now see what things Mr. Hastings did, what course he was in, a little before his departure; with what propriety and consistency of character he has behaved from the year of the commencement of his corrupt system in 1773 to the end of it, when he closed it in 1785; when the bribes not only mounted the chariot, but boarded the barge, and, as I shall show, followed him down to the Ganges, and even to the sea, and that he never quitted his system of iniquity; but that it survived his political life itself.

One of his last political acts was this:

Your lordships will remember, that Mr. Goodlad was sent up into the country, whose conduct was terrible indeed: for that he could not be in place and authority in that country, and be innocent, while such things were doing, I shall prove: but that is not now my consideration.

The governour-general's minute, just read, is this, "I entirely acquit Mr. Goodlad of all the charges: he has disproved them. It was the duty of the accuser to prove them," (the accuser, namely, the commissioner.) "Whatever crimes may be established against rajah Debi Sing, it does not follow, that Mr. Goodlad was responsible for them; and I so well know the character," &c. &c. &c.

Now your lordships perceive he has acquitted Mr. Goodlad. He is clear. Be it, that he is fairly and conscientiously acquitted. But what is Mr. Hastings's account of rajah Debi Sing? He is presented to him in 1781 by Gunga Govin Sing, as a person, against whose character there could be no exception, and by him accepted in that light. Upon the occasion I have mentioned, Mr. Hastings's opinion of him is this; "I so well know the character and abilities of rajah Debi Sing, that I can easily conceive, that it was in his power both to commit the enormities, which are laid to his charge, and to conceal the grounds of them from Mr. Goodlad, who had no authority but that of receiving the accounts and rents of the district from rajah Debi Sing, and occasionally to be the channel of communication between him and the committee."

Thus your lordships see what Mr. Hastings's opinion of Debi Sing was.—We shall prove it at another time by abundance of clear and demonstrative evidence, that whether he was bad or no (but we shall prove, that bad he was indeed) *even he* could hardly be so bad as he was in the opinion, which Mr. Hastings entertained of him; who notwithstanding, now disowns this mock committee, instituted by himself, but, in reality, entirely managed by Gunga Govin Sing. This Debi Sing was accepted as an unexceptionable man; and yet Mr. Hastings knows both his power of doing mischief, and his artifice in concealing it. If, then, Mr. Goodlad is to be acquitted, does it not show the evil of Mr. Hastings's conduct in destroying those provincial councils, which, as I have already stated, were obliged to book every thing, to minute all the circumstances, which came before them, together with all the consultations respecting them? He strikes at the whole system at once, and, instead of it, he leaves an Englishman under pretence of controulling Gunga Govin Sing's agent, appointed for the very purpose of giving him bribes, in a province, where Mr. Hastings says that agent had the power of committing such enormities, and which nobody doubts his disposition to commit.—He leaves him, I say, in such a state of inefficiency, that these iniquities could be concealed (though every one true) from the person appointed there to inspect his conduct!—What then could be his business there? was it only to receive such sums of money as Debi Sing might put into his hands, and which might easily have been sent to Calcutta? Was he to be of use as a communication between Debi Sing and the committee, and in no other way? Here then we have that English authority, which Mr. Hastings left in the country: here the native authority which he settled, and the establishment of native iniquity in a regular system under Gunga Govin Sing: here the destruction of all English inspection. I hope I need say no more to prove to your lordships, that this system, taken nakedly as it thus stands, founded in mystery and obscurity, founded for the very express purpose of conveying bribes, as the best mode of collecting the revenue, and supplying the company's exigencies through Gunga Govin Sing, would be iniquitous upon the face and the statement of it. But when your lordships consider what horrid effects it produced, you will easily see what the mischief and abomination of Mr. Hastings's destroying these provincial councils, and protecting these persons, must necessarily be. If you had not known in theory, you must have seen it in practice.

But when both practice and theory concur, there can be no doubt, that a system of private bribery for a revenue, and of private agency for a constitutional government, must ruin the country, where it prevails; must disgrace the country, that uses it, and finally end in the destruction of the revenue. For what says Mr. Hastings? I was to have received £.40,000 in bribes, and £.30,000 was actually applied to the use of the company. Now I hope I shall demonstrate, if not, it will be by some one abler than me demonstrated in the course of this business, that there never was a bribe received by Mr. Hastings, that was not instantly followed with a deficiency in the revenue; this is clear, and what we undertake to prove: and that Debi Sing himself was, at the time Mr. Hastings came away, between twenty and thirty thousand pounds debtor to the company. So that in truth you always find a deficiency of revenue nearly equal, and in some instances I shall show double, to all the bribes Mr. Hastings received; from whence it will be evident, that he never could, nor did, receive them under that absurd and strange idea of a resource to government.

I must re-state to your lordships, because I wish you never to forget, that this committee of revenue was, in their own opinion, and from their own certain knowledge, and mere motion, if motion can be attributed originally to instruments, mere tools; that they knew; that they were tools in the hands of Gunga Govin Sing. There were two persons principal in it, Mr. Shore, who was the acting president, and Mr. Anderson, who was president in rank, and president in emolument, but absent for a great part of the time upon a foreign embassy. It is the recorded opinion of the former, for I must beg leave to read again a part of the paper, which has already been read to your lordships, that "the committee with the best intentions, best abilities, and steadiest application, must, after all, be a tool in the hands of their dewan."

Now do you believe in the first place, that men will long have abilities, will long have good intentions, and will long, above all, have steady application, when they know they are but tools in the hands of another? when they know they are tools for his own corrupt purposes?

In the next place I must beg leave to state to you, that on the constitution of this committee Mr. Hastings made them all take a solemn oath, that they would never receive any present whatever. It was not enough to trust to a general covenant; it was not enough to trust to the penal act of 1773; he bound the committee by a new oath, and forced them to declare, that they would not receive any bribes. As soon as he had so secured them against receiving bribes, he was resolved to make them inefficient,—a good way to secure them against bribes, by taking from them the power of bribe-worthy service. This was a good counter security to their oath. But Mr. Hastings put a dewan there, against whom there was no security; he let loose this dewan to frustrate their intentions, their application, their abilities and oath; that is, there was a person at that board, who was more than the board itself, who might riot in peculation and plunder from one end of the country to the other. He was there to receive bribes for Mr. Hastings; the committee were to be pure with impotent hands; and then came a person with ample power for Mr. Hastings himself. And, lest this person should not have power enough in this committee, he is made the general bribe broker to Mr. Hastings. This secret under-current, as your lordships will see, is to counteract every thing, and, as fast as one part is rendered pure, totally to corrupt all the rest.

But, my lords, this was not the private opinion of Mr. Shore only, a man of great abilities, and intimately acquainted with the revenue, who must know when he was in a situation to do good, and when not. The other gentleman, whom I have mentioned, Mr. Hastings's confidant in every thing but his bribes, and supposed to be in his closest secrets, is Mr. Anderson. I should remark to your lordships, that Mr. Anderson is a man apparently of weak nerves, of modest and very guarded demeanour, as we have seen him in the House of Commons; it is in that way only I have the honour of knowing him. Mr. Anderson being asked, whether he agreed in the opinion and admitted the truth of his friend Mr. Shore's statement relative to the dewan of the committee, his answer was this—"I do not think, that I should have written it quite so strong, but I do in a great measure agree to it,—that is, I think there is a great deal of truth in the observation; I think, in particular, that it would require great exertion in the committee, and great abilites on the part of the president, to restrain effectually the conduct of the dewan; I think it would be difficult for the committee to interpose a sufficient controul to guard against all the abuses of the dewan."

There is the real president of the committee,—there the most active, efficient member of it. They are both of one opinion concerning their situation; and, I think, this

opinion of Mr. Anderson is still more strong; for as he thinks he should have written it with a little more guard, but should have agreed in substance, you must naturally think the strongest expression the truest representation of the circumstance.

There is another circumstance, that must strike your lordships relative to this institution. It is where the president says, that the use of the president would be to exert his best abilities, his greatest application, his constant guard, for what?—to prevent his dewan from being guilty of bribery, and being guilty of oppressions. So here is an executive constitution, in which the chief executive minister is to be in such a situation, and of such a disposition, that the chief employment of the presiding person in the committee is to guard against him, and to prevent his doing mischief. Here is a man appointed, of the greatest possible power, of the greatest possible wickedness, in a situation to exert that power and wickedness for the destruction of the country; and, without doubt, it would require the greatest ability and diligence in the person at the head of that council to prevent it. Such a constitution, allowed and alledged by the persons themselves, who composed it, was, I believe, never heard of in the world.

Now that I have done with this part of the system of bribery, your lordships will permit me to follow Mr. Hastings to his last parting scene. He parted with his power, he parted with his situation, he parted with every thing, but he never could part with Gunga Govin Sing. He was on his voyage, he had embarked, he was upon the Ganges, he had quitted his government; and his last dying sigh, his last parting voice, was Gunga Govin Sing. It ran upon the banks of the Ganges, as another plaintive voice ran upon the banks of another river, (I forget whose;) his last accents were Gunga, Gunga Govin Sing. It demonstrates the power of friendship.

It is said by some idle absurd moralists, that friendship is a thing, that cannot subsist between bad men; but I will show your lordships the direct contrary; and, after having shown you what Gunga Govin Sing was, I shall bring before you Mr. Hastings's last act of friendship for him. Not that I have quite shown you every thing, but pretty well, I think, respecting this man. There is a great deal concerning his character and conduct, that is laid by; and I do believe, that whatever time I should take up in expatiating upon these things, there would be "in the lowest deep still a lower deep;" for there is not a day of the inquiry, that does not bring to light more and more of this evil against Mr. Hastings.

But, before I open the papers, relative to this act of Mr. Hastings's friendship for Gunga Govin Sing, I must re-state some circumstances, that your lordships may understand thoroughly the nature of it. Your lordships may recollect, that about the time of the succession of the minor rajah of Dinagepore, who was then but five or six years of age, and, when Mr. Hastings left Bengal, eight or nine, Mr. Hastings had received from that country a bribe of about £.40,000. There is a fidelity even in bribery;—there is a truth and observance even in corruption; there is a justice, that, if money is to be paid for protection, protection should be given. My lords, Mr. Hastings received this bribe through Gunga Govin Sing; then, at least through Gunga Govin Sing, he ought to take care, that that rajah should not be robbed; that he should not be robbed, if Gunga Govin Sing could help it; that above all he should not be robbed by Gunga Govin Sing himself.—But your lordships will find, that the last act of Mr. Hastings's life was to be an accomplice in the most cruel and perfidious breach of faith, in the most iniquitous transaction, that I do believe ever was held out to the indignation of the world with regard to private persons. When he departed on the 16th of February 1785, when he was on board in the mouth of the Ganges, and preparing to visit his native country, let us see what the last act of his life then was. Hear the last tender accents of the dying swan upon the Ganges: "The regret which I cannot but feel in relinquishing the service of my honourable employers, would be much embittered, were it accompanied by the reflection, that I have neglected the merits of a man, who deseves no less of them than of myself, Gunga Govin Sing, who from his earliest youth had been employed in the collection of the revenues, and was, about eleven years ago, selected for his superiour talents to fill the office of dewan to the Calcutta committee. He has from that time, with a short intermission, been the principal native agent in the collection of the company's revenues; and I can take upon myself to say, that he has performed the duties of his office with fidelity, diligence, and ability. To myself he has given proofs of a constancy and attachment, which neither the fears, nor expectations, excited by the prevalence of different influence, could shake: and at a time too when these qualities were so dangerous that,

far from finding them among the generality of his countrymen, I did not invariably meet with them among my own. With such a sense of his merits, it is natural, that I should feel a desire of rewarding him; for justice, gratitude, generosity, and even policy demand it: and I resort to the board for the means of performing so necessary a duty, in full confidence, that as those, which I shall point out, are neither incompatible with the company's interest, nor prejudicial to the rights of others, they will not be withheld from me. At the request, therefore, of Gunga Govin Sing I deliver the accompanying durkausts, or petitions, for grants of lands lying in different districts; the total jumma, or rent, of which amount to rupees 2,38,061. 12. 1."

Your lordships recollect, that Mr. Larkins was one of the bribe agents of Mr. Hastings; one, I mean, of a corporation, but not corporate in their acts. My lords, Mr. Larkins has told you, he has told us, and he has told the court of directors, that Mr. Hastings parted in a quarrel with Gunga Govin Sing, because he had not faithfully kept his engagement with regard to his bribe; and that, instead of £40,000 from Dinagepore, he had only paid him £30,000. My lords, that iniquitous men will defraud one another I can conceive; but you will perceive by Mr. Hastings's behaviour at parting, that he either had in fact received this money from Gunga Govin Sing, or in some way or other had abundant reason to be satisfied; that he totally forgot his anger upon this occasion, and that at parting his last act was to ratify *grants of lands*, (so described by Mr. Hastings,) to Gunga Govin Sing. Your lordships will recollect the tender and forgiving temper of Mr. Hastings. Whatever little bickerings there might have been between them about their small money concerns, the purifying waters of the Ganges had washed away all sins, enmities, and discontent. By some of those arts, which Gunga Govin Sing knows how to practise (I mean conciliatory honest arts) he had fairly wiped away all resentment out of Mr. Hastings's mind; and he, who so long remembered the affront offered him by Cheit Sing, totally forgets Gunga Govin Sing's fraud of £10,000; and attempts to make others the instruments of giving him what he calls his reward.

Mr. Hastings, states among Gunga Govin's merits, that he had, from the time of its institution, and with a very short intermission, served the office of dewan to the Calcutta committee. That short intermission was, when he was turned out of office upon proof of peculation, and embezzlement of public money; but of this cause of the intermission in the political life and political merits of Gunga Govin Sing Mr. Hastings does not tell you.

Your lordships shall now hear what opinion a member of the provincial council at Calcutta, in which he had also served, had of him. "Who is Gunga Govin Sing?" The answer is:—"He was, when I left Bengal, dewan to the committee of revenue. What was his office and power during Mr. Hastings's administration since 1780?—He was formerly dewan to the provincial council stationed at Calcutta, of which I was a member. His conduct then was licentious and unwarrantable, oppressive and extortionary. He was stationed under us to be an humble and submissive servant, and to be of use to us in the discharge of our duty. His conduct was every thing the reverse. We endeavoured to correct the mischiefs he was guilty of as much as possible. In one attempt to release fifteen persons illegally confined by him, we were dismissed our offices; a different pretence was held out for our dismission, but it was only a pretence. Since his appointment as dewan to the present committee of revenue, his line of conduct has only been a continuance of what I have described, but upon a larger scale. What was the general opinion of the natives of the use he made of his power?—He was looked up to by the natives as the second person in the government, if not the first. He was considered as the only channel for obtaining favour and employment from the governour. There is hardly a native family of rank or credit within the three provinces, whom he has not some time or other distressed and afflicted; scarce a zemindary, that he has not dismembered and plundered. Was you in a situation to know this to be true?—I certainly was. What was the general opinion and your own, concering his wealth?—It is almost impossible to form a competent judgment, his means of acquiring it have been so extensive. I had an account shown to me about July 1785, stating his acquisitions at three hundred and twenty lacks of rupees, that is £3,200,000."

My lords, I have only to add, that, from the best inquiries I have been able to make, those, who speak highest of his wealth, are those who obtain the greatest credit. The estimate of any man's wealth is uncertain; but the enormity of his wealth is universally believed: yet Mr. Hastings seemed to act as if he needed a reward; and it is therefore necessary to

inquire, what recommended him particularly to Mr. Hastings. Your lordships have seen, that he was on the point of being dismissed for misbehaviour, and oppression, by that Calcutta committee, his services to which Mr. Hastings gives as one proof of his constant and uniform good behaviour. "He had executed," he says, "the duties of his office with fidelity, diligence and ability." These are his public merits—but he has private merits: "To myself," says he, "he has given proofs of constancy and attachment."

Now we, who have been used to look very diligently over the company's records, and to compare one part with another, ask, what those services were, which have so strongly recommended him to Mr. Hastings, and induced him to speak so favourably of his public services? What those services are, does not appear; we have searched the records for them, (and those records are very busy and loquacious,) about that period of time, during which Mr. Hastings was labouring under an eclipse, and near the dragon's mouth, and all the drums of Bengal beating to free him from this dangerous eclipse. During this time there is nothing publicly done, there is nothing publicly said, by Gunga Govin Sing. There were then some services of Gunga Govin Sing, that lie undiscovered, which he takes as proofs of attachment. What could they be? they were not public; nobody knows any thing of them; they must by reference to the time, as far as we can judge of them, be services of concealment. Otherwise, in the course of this business it will be necessary, and Mr. Hastings will find occasion, to show what those personal services of Gunga Govin Sing to him were. *His* services to Gunga Govin Sing were pretty conspicuous; for, after he was turned out for peculation, Mr. Hastings restored him to his office; and when he had imprisoned fifteen persons illegally and oppressively, and when the council were about to set them at liberty, they were set at liberty themselves; they were dismissed their offices. Your lordships see, then, what his public services were. His private services are unknown; they must be, as we conceive from their being unknown, of a suspicious nature; and I do not go further than suspicion, because I never heard, and I have not been without attempts to make the discovery, what those services were, that recommended him to Mr. Hastings.

Having looked at his public services, which are well-known scenes of wickedness, barbarity, and corruption, we next come to see what his reward is. Your lordships hear what reward he thought proper to secure for himself, and, I believe, a man, who has power like Gunga Govin Sing, and a disposition like Gunga Govin Sing, can hardly want the means of rewarding himself; and if every virtue rewards itself, and virtue is said to be its own reward, the virtue of Gunga Govin Sing was in a good way of seeking its own reward. Mr. Hastings, however, thought it was not right, that such a man should reward himself; but that it was necessary for the honour and justice of government to find him a reward. Then the next thing is, what that reward shall be. It is a grant of lands. Your lordships will observe, that Mr. Hastings declares some of these lands to be unoccupied, others occupied, but not by the just owners. Now these were the very lands of the rajah of Dinagepore, from whence he had taken the bribe of £40,000. My lords, this was a monstrous thing. Mr. Hastings had the audacity, as his parting act, when he was coming to England, and ought to have expected (whatever he did expect) the responsibility of this day,—he was, I say, shameless enough, not only to give this recommendation, but to perpetuate the mischiefs of his reign, as he has done, to his successours; for he has really done so by making it impossible almost to know any thing of the true state of that country: and he has thereby made them much less responsible and criminal than before in any ill acts, they may have done since his time. But Mr. Hastings not only recommends and backs the petition of Gunga Govin Sing with his parting authority, which authority he made the people there believe would be greater in England, than it was in India; but he is an evidence; he declares, that "to his own knowledge these lands are vacant, and confessedly, therefore, by the laws of this as well as of most other countries, in the absolute gift of government."

My lords, (as I said) Mr. Hastings becomes a witness, and, I believe, in the course of the proceedings you will find, a false witness for Gunga Govin Sing. "To my own knowledge," says he, "they are vacant." Why, I cannot find, that Mr. Hastings had ever been in Dinagepore; or, if he had, it must have been only as a passenger. He had not the superversion of the district, in any other sense than with that kind of eagle eye, which he must have had over all Bengal, and which he had for no other purposes than those, for which eagles' eyes are commonly used. He becomes, you see, a witness for Gunga Govin Sing, and orders to be given him, as a recompense for all the iniquitous

acts this man committed, the lands of that very rajah who through the hands of Gunga Govin Sing, had given an enormous bribe to Mr. Hastings. These lands were not without an ownership, but were lands in the hands of the rajah, and were to be severed from the zemindary and given to Gunga Govin Sing. The manner of obtaining them is something so shocking, and contains such a number of enormities completed in one act, that one can scarce imagine how such a compound could exist.

This man, besides his office of dewan to the Calcutta committee, which gave him the whole management and power of the revenue, was, as I have stated, at the head of all the registers in the kingdom, whose duty it was to be a controul upon him as dewan. As Mr. Hastings destroyed every other constitutional settlement of the country, so the office, which was to be a check upon Gunga Govin Sing, namely, the register of the country, had been superseded, and revived in another shape, and given to the own son of this very man. God forbid, that a son should not be under a certain and reasonable subordination. But though in this country we know a son may possibly be free from the controul of his father, yet the meanest slave is not in a more abject condition of slavery, than a son is in that country to his father; for it extends to the power of a Roman parent. The office of register is to take care, that a full and fair rent is secured to government; and above all it is his business to take care of the body of laws, the royjaun mulluck, or custom of the country, of which he is the guardian as the head of the law. It was his business to secure that fundamental law of the government, and fundamental law of the country, that a zemindary cannot be split; or any portion of it separated without the consent of the government. This man betrayed his trust, and did privately, contrary to the duty of his office, get this minor rajah, who was but an infant, who was but nine years old at the time, to make over to him a part of his zemindary, to a large amount, under colour of a fraudulent and fictitious sale. By the laws of that country, by the common laws of nature, the act of this child was void. The act was void as against the government, by giving a zemindary without the consent of the government to the very man, who ought to have prevented such an act: he has the same sacred guardianship of minors, that the chancellour of England has.—This man got to himself those lands by a fraudulent, and probably forged, deed, for th t is charged too; but whether it was forged or not, this miserable minor was obliged to give the lands to him: he did not dare to quarrel with him upon such an article; because he, who would purchase, could take.

The next step was to get one of his nearest relations to seem to give a consent; because taking it of the minor was too gross. The relation, who could no more consent by the law of that country than the law of this, gave apparently his consent. And these were the very lands, that Mr. Hastings speaks of as "lands entirely at the disposal of government." All this came before the council. The moment Mr. Hastings was gone, India seemed a little to respire; there was a vast oppressive weight taken off it,—there was a mountain removed from its breast; and persons did dare then, for the first time, to breathe their complaints. And accordingly this minor rajah got some person kind enough to tell him, that he was a minor,—that he could not part with his estate; and this, with the other shocking and illegal parts of the process, was stated by him to the council, who had Mr. Hastings's recommendation of Gunga Govin Sing before them. The council, shocked to see a minor attempted to be dispossessed in such a manner by him, who was the natural guardian of all minors, shocked at such an enormous daring piece of iniquity, began to inquire further, and to ask, how came this his near relation to consent? He was apparently partner in the fraud. Partner in the fraud he was, but not partner in the profit; for he was to do it without getting any thing for it; the wickedness was in him, and the profit in Gunga Govin Sing. In consequence of this inquiry, the man comes down to account for his conduct, and declares another atrocious iniquity, that shows you the powers, which Gunga Govin Sing possessed.—"Gunga Govin Sing," says he, "is master of the country; he had made a great festival for the burial of his mother; all those of that cast ought to be invited to the funeral festival; he would have disgraced me for ever, if I had not been invited to that funeral festival." These funeral festivals, you should know, are great things in that country, and celebrated in this manner, and, you may depend upon it, in a royal manner, by him, upon burying his mother: any person left out was marked, despised, and disgraced. "But he had it in his power, and I was threatened to be deprived of my cast by his register, who had the cast in his absolute disposition." Says he, "I was under terrour, I was under duresse, and I did it."

Gunga Govin Sing was fortified by the opinion, that the governour, though departed, vir-

tually resided in that country. God grant, that his power may be extirpated out of it now. I doubt it; but, most assuredly, it was residing in its plenitude when he departed from thence; and there was not a man in India, who was not of opinion, either that he was actually to return to govern India again, or that his power is such in England, as that he might govern it here. And such were the hopes of those, who had intentions against the estates of others. —Gunga Govin Sing, therefore, being pressed to the wall by this declaration of the rajah's relation, when he could say nothing against it, when it was clear and manifest, and there were only impudent barefaced denials, and asseverations against facts, which carried truth with themselves, did not in his answer pretend to say, that a zemindary might be parted without the consent of the government,—that a minor might be deprived of it,—that the next relation had a power of disposing of it. He did indeed say, but nobody believed him, that he had used no force upon this relation; but as every one knew the act would be void, he was driven to Mr. Hastings's great refuge; he was driven to say, "The government in this country has arbitrary power,—the power of government is every thing,—the right of the subject nothing;—they have at all times separated zemindaries from their lawful proprietors.—Give me, what Mr. Hastings has constantly given to other people without any right, or shadow, or semblance of right at all."—God knows, it is well, that I walk with my authority in my hand; for there are such crimes, such portentous incredible crimes, to be brought before your lordships, that it would hardly be believed, were it not, that I am constantly, as I hope I shall constantly be, guarded with evidence, and that the strongest, that can be, even the evidence of the parties themselves.

"From your inquiry (Gunga Govin Sing says to the council) every circumstance will appear in its true colours. With respect to the alienation of parts of zemindaries, the extent and consequence of the great zemindars depend, in a great measure, on the favour and countenance of the ruling powers.

"By what means did this zemindar of Dinagepore get possession of purgunnah Buttassim after the death of Rycobad Chowdry in 1158, of purgunnah Coolygong after the death of Sahebrance Chowderanne, in the same year, notwithstanding his heirs existed; and of purgunnah Suntoe, &c. during the lifetime of Sumboonant, the zemindar, in 1167, all without right, title, or pecuniary consideration? This has been the case with many purgunnahs in his zemindary, and indeed exists in many other zemindaries besides since the company's accession. Ramkissen, in 1172, got possession of Nurrulloor, the zemindary of Mahomed Ali: the purgunnah of Ichanguipore, &c. was in three divisions in 1173. The petition of Govin Deo Sheopersaud was made over to the son of Bousser Chowdry, possessour of the third share. Purgunnah Baharbund belonged to the zemindary of Rannee Bhowanny, and, in 1180, was made over to Lucknaut Nundy. All these changes took place in the life-time of the rightful possessours, without right, title, or purchase."

Your lordships have not heard before of Lucknaut Nundy. He was the son of a person, of whom your lordships have heard before, called Cantoo Baboo, the banyan of Mr. Hastings. Mr. Hastings has proved in abundance of other cases, that a grant to father and son is the same thing. The fathers generally take out grants in the names of their sons; and the Ranny Bhowanny, possessing the zemindary of Radshi, an old lady of the first rank and family in India, was stripped of part of her zemindary, and it was given to Lucknaut Nundy, the son of Mr. Hastings's bayan; and then (you see the consequence of good examples) comes Gunga Govin Sing, and says, I am as good a man as he; there is a zemindary given; then do as much for Gunga Govin Sing as you have done for Cantoo Baboo. Here is an argument drawn from the practice of Mr. Hastings. And this shows your lordships the necessity of suppressing such iniquities by punishing the author of them. You will punish Mr. Hastings; and no man will hereafter dare to rob minors, no man will hereafter dare to rob widows, to give to the vilest of mankind, their own base instruments for their own nefarious purposes, the lands of others without right, title, or purchase.

My lords, I will not after this state to you the false representation of the value of these lands, which this man gave in to government. He represented it to be much less than it was, when he desired the grant of them; as shall be stated, when it comes before your lordships, at the proper time. But at present I am only touching upon principles, and bringing examples so far as they illustrate principles, and to show how precedents spread.

I believe, your lordships will conceive better of the spirit of these transactions by my intermixing with them, as I shall endeavour to do, as much as possible of the grounds of them. I will venture to say, that no description, that I can give, no painting, if I was either able or

willing to paint, could make these transactions appear to your lordships with the strength which they have in themselves; and your lordships will be convinced of this, when you see, what nobody could hardly believe, that a man can say, "It was given to others without right, title, or purchase, give it to me without right, title, or purchase;—give me the estates of minors without right, title, or purchase, because Mr. Hastings gave the estates of widows without right, title, or purchase."

Of this exemplary grant, of this pattern for future proceedings, I will show your lordships the consequence.

I will read to your lordships part of the examination of a witness, taken from a report of a committee of the House of Commons.

"Are you acquainted with the situation of the zemindary of Baharbund?—It lies to the eastward of Dinagepore and Rungpore. I was stationed in that neighbourhood. To whom did it originally belong?—I believe, to the zemindary of Radshi, belonging to ranny Bowanny. For what reason was it taken from the ranny of Radshi and given to Cantoo Baboo?—I do not exactly recollect: I believe, on some plea of incapacity or insufficiency in her to manage it, or some pretended decline in the revenue, owing to mismanagement. On what terms was it granted to Cantoo Baboo or his son?—I believe it was a grant in perpetuity, at the revenue of rupees 82 or 83,000 per annum. What amount did he collect from the country?—I cannot tell. The year I was in that neighbourhood, the settlement with his under-tenants was something above 3,53,000 rupees. The inhabitants of the country objected to it. They assembled in a body of about five thousand, and were proceeding to Calcutta to make known their grievances to the committee of revenue. They were stopped at Cossimbuzar by Noor Sing Baboo, the brother of Cantoo Baboo, and there the matter was compromised, in what manner I cannot say."

Your lordships see, Mr. Hastings's banyan got this zemindary belonging to this venerable lady, unable to protect herself; that it was granted to him without right, title, or purchase. To show you, that Mr. Hastings had been in a constant course of such proceeding, here is a petition from a person called * * * * * * * * * * for some favour from government, which it is not necessary now to state. In order to make good his claim, he states what nobody denied, but which is universally known in fact. Says he, "I have never entertained any such intention or idea;" that is, of seizing upon other people's zemindaries, "neither am I at all desirous of acquiring any other person's zemindary in this country," &c. * * * * *

[*The document, read here, is wanting, ending*] "as several Calcutta banyans have done," &c. * * * * *

He states it as a kind of constant practice, by which the country had been robbed under Mr. Hastings, known and acknowledged to be so, to seize upon the inheritance of the widow, and the fatherless. In this manner did Gunga Govin Sing govern himself upon the direct precedent of Cantoo Baboo, the banyan of Mr. Hastings; and this other instrument of his in like manner calls upon government for favour of some kind or other, upon the same principle, and the same precedent.

Your lordships now see, how necessary it was to say something about arbitrary power: for, first, the wicked people of that country (Mr. Hastings's instruments I mean) pretend right, title, purchase, grant; and when their frauds in all these legal means are discovered, then they fly off, and have recourse to arbitrary power; and say, It is true, I can make out no right, title, grant, or purchase; the parties are minors; I am bound to take care of their right; but you have arbitrary power; you have exercised it upon other occasions; exercise it upon this; give me the rights of other people. This was the last act, and, I hope, will be the last act of Mr. Hastings's wicked power, done by the wickedest man in favour of the wickedest man, and by the wickedest means, which failed upon his own testimony.

To bring your lordships to the end of this business, which I hope will lead me very near to the end of what I have to trouble your lordships with; I will now state the conduct of the council, and the resolution about Gunga Govin Sing. I am to inform your lordships, that there was a reference made by the council to the committee of revenue, namely to Gunga Govin Sing himself; a reference with regard to the right, title, mode, and proceeding, and many other circumstances; upon which the committee, being such as I have described, very naturally were silent. Gunga Govin Sing *loquitur solus*—in the manner you have just heard; the committee were the chorus; they sometimes talk—fill up a vacant part, but Gunga Govin Sing was the great actor, the sole one. The report of this committee being laid before the council, Mr. Stables, one of the board, entered the following minute on the fifteenth of May 1785: "I have perused the several papers upon this subject, and am sorry

to observe, that the committee of revenue are totally silent on the most material points therein, and sending the petition to them has only been so much time thrown away—I mean, on the actual value of the lands in question: what the amount derived from them has been in the last year, and what advantages or disadvantages to government by the sale; and whether, in their opinion, the supposed sale was compulsive, or not. But, it is not necessary for the discussion of the question respecting the regularity or irregularity of the pretended sale of Salbarry to Gunga Govin Sing, the dewan, to enter into the particular assertions of each party.

"The representations of the rajah's agent, confirmed by the petitions of his principal, positively assert the sale to have been compulsive and violent; and the dewan as positively denies it, though the fears he expresses, '*that their common enemies would set aside the act before it was complete*,' show clearly, that they were sensible the act was unjustifiable, if they do not tend to falsify his denial.

"But, it is clearly established and admitted by the language and writings of both parties, that there has been a most unwarrantable collusion in endeavouring to alienate the rights of government, contrary to the most positive original laws of the constitution of these provinces, '*that no zemindar, and other landholder, paying revenue to government, shall be permitted to alienate his lands without the express authority of that government.*'

"The defence set up by Gunga Govin Sing does not go to disavow the transaction; for, if it did, the deed of sale, &c. produced by himself, and the petition to the board for its confirmation, would detect him; on the contrary, he openly admits its existence, and only strives to show, that it was a voluntary one on the part of the ranny and the servants of the rajah. Whether voluntary or not, was equally criminal in Gunga Govin Sing, as the public officer of government, because diametrically opposite to the positive and repeated standing orders of that government for the rule of his conduct, as dewan, and native guardian of the public rights intrusted especially to his care; because it was his duty, not only not to be guilty of a breach of those rules himself, but, as dewan, and exercising the efficient office of canongoe, to prevent, detect, expose, and apprize his employers of every instance attempted to the contrary; because it was his duty to prevent the government being defrauded, and the rajah, a child of nine years old, robbed of his hereditary possessions, as he would have been, if this transaction had not been detected; whereas, on the contrary, the dewan is himself the principal mover, and sole instrument in that fraud and robbery, if I am rightly informed,* to the amount of 42,474 rupees in perpetuity, by which he alone was to benefit; and because, he has even dared to stand forward in an attempt to obtain our sanction, and thereby make us parties to (in my opinion) a false deed and fraudulent transaction, as his own defence now shows the bill of sale and all its collateral papers to be.

"If offences of this dark tendency and magnitude were not to be punished in a public manner, the high example here set the natives, employed under the government by their first native officer, would very soon render our authority contemptible, and operate to the destruction of the public revenues.—I will not dwell further on the contradictions in these papers before us on this subject.

"But, I beg leave to point out, how tenacious the government have been of ensuring implicit obedience to their rules on this subject in particular, and in prohibiting conduct like that here exhibited against their public officer, and how sacredly they have viewed the public institutes on this subject which have been violated and trampled on; and it will suffice to show their public orders on a similar instance, which happened some time ago, and which the dewan, from his official situation, must have been a party in detecting.

"I desire the board's letter to the committee on this subject, dated the 31st May 1782, may be read, and a copy be annexed to this minute.

"I, therefore, move the board, that Gunga Govin Sing may be forthwith required to surrender the original deeds produced by him, as a title to the grant of Salbarry, in order that they may be returned to the rajah's agents, to be made null and void.

"I further move the board, that the dewan Gunga Govin Sing, together with his naib Prawn Kishin Sing, his son, and all his dependants, be removed from their offices, and that the roy royan, rajah Rajebullub, whose duty Gunga Govin Sing virtually is to perform, be reinstated in the exercise of the duties of his department, and that Gunga Govin Sing be ordered to deliver up all official pa-

* Vakeel states Mofussil Jumma, of Salbarry, for 1,191 Sa Rs - - 96,229
Purchase money - - 53,755
Per annum, loss - - 42,474

pers of the sircar to the committee of revenue and the roy royan, and that they be ordered accordingly to take charge of them, and finally settle all accounts."—This motion was overruled, and no final proceeding appears.

My lords, you have heard the proceedings of the court, before which Gunga Govin Sing thought proper to appeal, in consequence of the power and protection of Mr. Hastings being understood to exist after he left India, and authenticated by his last parting deed. Your lordships will judge by that last act of Mr. Hastings, what the rest of his whole life was. —My lords, I do not mean now to go further, than just to remind your lordships of this, that Mr. Hastings's government was one whole system of oppression, of robbery of individuals, of destruction of the public, and of supersession of the whole system of the English government, in order to vest in the worst of the natives all the powers, that could possibly exist in any government; in order to defeat the ends, which all governments ought in common to have in view. Thus, my lords, I show you, at one point of view, what you are to expect from him in all the rest. I have, I think, made out as clear as can be to your lordships, so far as it was necessary to go, that his bribery and peculation was not occasional, but habitual; that it was not urged upon him at the moment, but was regular and systematic. I have shown to your lordships the operation of such a system on the revenues.

My lords, Mr. Hastings pleads one constant merit to justify those acts; namely, that they produce an increase of the public revenue; and accordingly he never sells to any of those wicked agents any trusts whatever in the country, that you do not hear, that it will considerably tend to the increase of the revenue.—Your lordships will see, when he sold to wicked men the province of Bahar in the same way, in which Debi Sing had this province of Dinagepore, that consequences of a horrid and atrocious nature (though not to so great an extent) followed from it. I will just beg leave to state to your lordships, that the kingdom of Bahar is annexed to the kingdom of Bengal; that this kingdom was governed by another provincial council; that he turned out that provincial council, and sold that government to two wicked men,—one of no fortune at all, and the other of a very suspicious fortune; one a total bankrupt, the other justly excommunicated for his wickedness in his country, and then in prison for misdemeanours in a subordinate situation of government.

Mr. Hastings destroyed the council, that imprisoned him; and, instead of putting one of the best and most reputable of the natives to govern it, he takes out of prison this excommunicated wretch, hated by God and man,—this bankrupt, this man of evil and desperate character, this mismanager of the public revenue in an inferiour station: and, as he had given Bengal to Gunga Govin Sing, he gave this province to rajahs Kelleram, and Cullian Sing.

It was done upon this principle, that they would increase, and very much better, the revenue. These men seemed to be as strange instruments for improving a revenue as ever were chosen, I suppose, since the world began. Perhaps their merit was giving a bribe of £.40,000 to Mr. Hastings. How he disposed of it, I don't know. He says, I disposed of it to the public, and it was in a case of emergency. You will see in the course of this business the falsehood of that pretence; for you will see, though the obligation is given for it as a round sum of money, that the payment was not accomplished till a year after; that therefore it could not answer any immediate exigence of the company. Did it answer in an increase of the revenue?—The very reverse. Those persons, who had given this bribe of £.40,000 at the end of that year were found £.80,000 in debt to the company. The company always loses, when Mr. Hastings takes a bribe; and, when he proposes an increase of the revenue, the company loses often double. But I hope, and trust, your lordships will consider this idea of a monstrous rise of rent, given by men of desperate fortunes and characters, to be one of the grievances instead of one of the advantages of this system.

It has been necessary to lay these facts before you (and I have stated them to your lordships far short of their reality, partly through my infirmity, and partly on account of the odiousness of the task of going through things, that disgrace human nature) that you may be enabled fully to enter into the dreadful consequences, which attend a system of bribery and corruption in a governour-general. On a transient view, bribery is rather a subject of disgust than horrour; the sordid practice of a venal, mean and abject mind; and the effect of the crime seems to end with the act. It looks to be no more than the corrupt transfer of property from one person to another; at worst a theft. But it will appear in a very different light, when you regard the consideration, for which the bribe is given; namely, that a governour-general, claiming an arbitary power in himself, for that consideration delivers up the

properties, the liberties, and the lives of an whole people to the arbitrary discretion of any wicked and rapacious person, who will be sure to make good from their blood the purchase he has paid for his power over them. It is possible, that a man may pay a bribe merely to redeem himself from some evil. It is bad however to live under a power, whose violence has no restraint except in its avarice. But no man ever paid a bribe for a power to charge and tax others, but with a view to oppress them. No man ever paid a bribe for the handling of the public money, but to peculate from it. When once such offices become thus privately and corruptly venal, the very worst men will be chosen (as Mr. Hastings has in fact constantly chosen the very worst,) because none but those, who do not scruple the use of any means, are capable, consistently with profit, to discharge at once the riged demands of a severe public revenue, and the private bribes of a rapacious chief magistrate. Not only the worst men will be thus chosen, but they will be restrained by no dread whatsoever in the execution of their worst oppressions. Their protection is sure. The authority, that is to restrain, to controul, to punish them, is previously engaged; he has his retaining fee for the support of their crimes. Mr. Hastings never dared, because he could not, arrest oppression in its course, without drying up the source of his own corrupt emolument. Mr. Hastings never dared, after the fact, to punish extortion in others, because he could not, without risking the discovery of bribery in himself. The same corruption, the same oppression, and the same impunity, will reign through all the subordinate gradations.

A fair revenue may be collected without the aid of wicked, violent, and unjust instruments. But, when once the line of just and legal demand is transgressed, such instruments are of absolute necessity; and they comport themselves accordingly. When we know, that men must be well paid (and they ought to be well paid) for the performance of honourable duty, can we think, that men will be found to commit wicked, rapacious, and oppressive acts with fidelity and disinterestedness, for the sole emolument of dishonest employers? No; they must have their full share of the prey, and the greater share as they are the nearer and more necessary instruments of the general extortion. We must not therefore flatter ourselves, when Mr. Hastings takes £.40,000 in bribes for Dinagepore and its annexed provinces, that from the people nothing more than £.40,000 is extorted. I speak within compass, four times forty must be levied on the people; and these violent sales, fraudulent purchases, confiscations, inhuman and unutterable tortures, imprisonment, irons, whips, fines, general despair, general insurrection, the massacre of the officers of revenue by the people, the massacre of the people by the soldiery, and the total waste and destruction of the finest provinces in India, are things of course; and all a necessary consequence involved in the very substance of Mr. Hastings's bribery.

I, therefore, charge Mr. Hastings with having destroyed, for private purposes, the whole system of government by the six provincial councils, which he had no right to destroy.

I charge him with having delegated to others that power, which the act of parliament had directed him to preserve unalienably in himself.

I charge him with having formed a committee to be mere instruments and tools, at the enormous expense of £.62,000 per annum.

I charge him with having appointed a person their dewan, to whom these Englishmen were to be subservient tools; whose name, to his own knowledge, was by the general voice of India, by the general recorded voice of the company, by recorded official transactions, by every thing, that can make a man known, abhorred, and detested, stamped with infamy; and with giving him the whole power, which he had thus separated from the council-general, and from the provincial councils.

I charge him with taking bribes of Gunga Govin Sing.

I charge him with not having done that bribe-service, which fidelity even in iniquity requires at the hands of the worst of men.

I charge him with having robbed those people of whom he took the bribes.

I charge him with having fraudulently alienated the fortunes of widows.

I charge him with having, without right, title, or purchase, taken the lands of orphans, and given them to wicked persons under him.

I charge him with having removed the natural guardians of a minor rajah, and with having given that trust to a stranger, Debi Sing, whose wickedness was known to himself and all the world; and by whom the rajah, his family, and dependants were cruelly oppressed.

I charge him with having committed to the management of Debi Sing three great provinces; and thereby, with having wasted the country, ruined the landed interest, cruelly harassed the peasants, burnt their houses, seized their crops, tortured and degraded their persons, and destroyed the honour of the whole female race of that country.

In the name of the Commons of England, I charge all this villany upon Warren Hastings, in this last moment of my application to you.

My lords, what is it, that we want here to a great act of national justice? Do we want a cause, my lords? You have the cause of oppressed princes, of undone women of the first rank, of desolated provinces, and of wasted kingdoms.

Do you want a criminal, my lords? When was there so much iniquity ever laid to the charge of any one?—No, my lords, you must not look to punish any other such delinquent from India.—Warren Hastings has not left substance enough in India to nourish such another delinquent.

My lords, is it a prosecutor you want?—You have before you the Commons of Great Britain as prosecutors; and, I believe, my lords, that the sun, in his beneficent progress round the world, does not behold a more glorious sight than that of men, separated from a remote people by the material bounds and barriers of nature, united by the bond of a social and moral community;—all the Commons of England resenting, as their own, the indignities and cruelties, that are offered to all the people of India.

Do we want a tribunal? My lords, no example of antiquity, nothing in the modern world, nothing in the range of human imagination, can supply us with a tribunal like this. My lords, here we see virtually in the mind's eye that sacred majesty of the crown, under whose authority you sit, and whose power you exercise. We see in that invisible authority, what we all feel in reality and life, the beneficent powers and protecting justice of his majesty. We have here the heir apparent to the crown, such as the fond wishes of the people of England wish an heir apparent of the crown to be. We have here all the branches of the royal family in a situation between majesty and subjection, between the sovereign and the subject,—offering a pledge in that situation for the support of the rights of the crown, and the liberties of the people, both which extremities they touch. My lords, we have a great hereditary peerage here; those, who have their own honour, the honour of their ancestors, and of their posterity, to guard; and who will justify, as they have always justified, that provision in the constitution, by which justice is made an hereditary office. My lords, we have here a new nobility, who have risen, and exalted themselves by various merits, by great military services, which have extended the fame of this country from the rising to the setting sun: we have those, who by various civil merits and various civil talents have been exalted to a situation, which they well deserve, and in which they will justify the favour of their sovereign, and the good opinion of their fellow subjects; and make them rejoice to see those virtuous characters, that were the other day upon a level with them, now exalted above them in rank, but feeling with them in sympathy what they felt in common with them before. We have persons exalted from the practice of the law, from the place, in which they administered high, though subordinate, justice, to a seat here, to enlighten with their knowledge, and to strengthen with their votes those principles, which have distinguished the courts, in which they have presided.

My lords, you have here also the lights of our religion; you have the bishops of England. My lords, you have that true image of the primitive church in its antient form, in its antient ordinances, purified from the superstitions and the vices which a long succession of ages will bring upon the best institutions. You have the representatives of that religion, which says, that their God is love, that the very vital spirit of their institution is charity; a religion, which so much hates oppression, that, when the God, whom we adore, appeared in human form, he did not appear in a form of greatness and majesty, but in sympathy with the lowest of the people,—and thereby made it a firm and ruling principle, that their welfare was the object of all government; since the person, who was the Master of Nature, chose to appear himself in a subordinate situation. These are the considerations, which influence them, which animate them, and will animate them, against all oppression; knowing, that He, who is called first among them, and first among us all, both of the flock, that is fed, and of those, who feed it, made Himself "the servant of all."

My lords, these are the securities, which we have in all the constituent parts of the body of this house. We know them, we reckon, we rest upon them, and commit safely the interests of India and of humanity into your hands. Therefore, it is with confidence, that, ordered by the Commons,

I impeach Warren Hastings, Esquire, of high crimes and misdemeanours.

I impeach him in the name of the Commons of Great Britain in parliament assembled, whose parliamentary trust he has betrayed.

I impeach him in the name of all the Commons of Great Britain, whose national character he has dishonoured.

I impeach him in the name of the people of India, whose laws, rights, and liberties he has subverted; whose properties he has destroyed, whose country he has laid waste and desolate.

I impeach him in the name, and by virtue, of those eternal laws of justice, which he has violated.

I impeach him in the name of human nature itself, which he has cruelly outraged, injured, and oppressed in both sexes, in every age, rank, situation, and condition of life.

*** After Mr. Burke had concluded these opening speeches, the first article of the impeachment was brought forward on the 22d of February 1788, by Mr. Fox, and supported by Mr. Grey on the 25th. After the evidence upon this article had been adduced, it was summed up and enforced by Mr. Anstruther on the 11th day of April following.

The next article with which the commons proceeded, was brought forward on the 15th of April 1788, by Mr. Adam, and supported by Mr. Pelham; and the evidence, in part upon the second article of charge, was summed up and enforced on the 3d of June, by Mr. Sheridan.

On the 21st of April 1789, Mr. Burke opened the sixth charge, bribery and corruption, in the following speech, which was continued on the 21st of April, and on the 5th and 7th May, in the same session.

TRIAL—TUESDAY, 21st April 1789.

(Mr. Burke.)

My Lords,—An event, which had spread, for a considerable time, an universal grief and consternation through this kingdom, and which, in its issue, diffused as universal and transcendent a joy, has in the circumstances both of our depression and of our exaltation produced a considerable delay, if not a total suspension of the most important functions of government.

My lords, we now resume our office; and we resume it with new and redoubled alacrity, and, we trust, under not less propitious omens than when we left it, in this house, at the end of the preceding session. We come to this duty with a greater degree of earnestness and zeal, because we are urged to it by many and very peculiar circumstances. This day we come from an house, where the last steps were taken, and, I suppose, something has happened similar in this, to prepare our way to attend with the utmost solemnity in another place a great national thanksgiving for having restored the sovereign to his parliament, and the parliament to its sovereign.

But, my lords, it is not only in the house of prayer, that we offer to the First Cause the acceptable homage of our rational nature—my lords, in this house, at this bar, in this place, in every place where His commands are obeyed, His worship is performed. And, my lords, I must boldly say, (and I think I shall hardly be contradicted by your lordships, or by any persons versed in the law, which guides us all,) that the highest act of religion, and the highest homage, which we can and ought to pay, is an imitation of the divine perfections as far as such a nature can imitate such perfections; and that by this means alone we can make our homage acceptable to him.

My lords, in His temple we shall not forget, that His most distinguished attribute is justice, and that the first link in the chain, by which we are held to the Supreme Judge of all, is justice; and that it is in this solemn temple of representative justice we may best give him praise, because we can here best imitate his divine attributes. If ever there was a cause, in which justice and mercy are not only combined and reconciled, but incorporated, it is in this cause of suffering nations, which we now bring before your lordships, this second session of parliament, unwearied and unfatigued in our persevering pursuit; and we feel it to be a necessary preliminary, a necessary fact, a necessary attendant and concomitant of every public thanksgiving, that we should express our gratitude by our virtues, and not merely with our mouths; and that, when we are giving thanks for acts of mercy, we should render ourselves worthy of them by doing acts of mercy ourselves. My lords, these considerations, independent of those, which were our first movers in this business, strongly urge us at present to pursue with all zeal and perseverance the great cause, we have now in hand. And we feel this to be the more necessary, because we cannot but be sensible, that light, unstable, variable, capricious, inconstant, fastidious minds soon tire in any pursuit, that requires strength, steadiness, and perseverance. Such persons, who we trust are but few, and who certainly do not resemble your lordships, nor us, begin already to say, How long is this business to continue? Our answer is,—It is to continue till its ends are obtained.

We know, that by a mysterious dispensation of Providence injury is quick and rapid;

and justice slow: and we may say, that those, who have not patience and vigour of mind to attend the tardy pace of justice, counteract the order of Providence, and are resolved not to be just at all. We, therefore, instead of bending the order of nature to the laxity of our characters and tempers, must rather confirm ourselves by a manly fortitude and virtuous perseverance to continue within those forms, and to wrestle with injustice, until we have shown, that those virtues, which sometimes wickedness debauches into its cause, such as vigour, energy, activity, fortitude of spirit, are called back and brought, to their true and natural service; and that in the pursuit of wickedness, in the following it through all the winding recesses and mazes of its artifices, we shall show as much vigour, as much constancy, as much diligence, energy, and perseverance, as any others can do in endeavouring to elude the laws, and triumph over the justice of their country. My lords, we have thought it the more necessary to say this, because it has been given out, that we might faint in this business: No, we follow, and trust we shall always follow that great emblem of antiquity, in which the person, who held out to the end of a long line of labours, found the reward of all the eleven in the twelfth. Our labour, therefore, will be our reward; and we will go on, we will pursue with vigour and diligence, in a manner suitable to the Commons of Great Britain, every mode of corruption, till we have thoroughly eradicated it.

I think it necessary to say a word too upon another circumstance, of which there is some complaint, as if some injustice had arisen from voluntary delay on our part.

I have already alluded to, first, the melancholy, then, the joyful occasion of this delay; and I shall now make one remark on another part of the complaint, which I understand was formally made to your lordships, soon after we had announced our resolution to proceed in this great cause of suffering nations before you. It has been alleged, that the length of the pursuit had already very much distressed the person, who is the object of it; that it leaned upon a fortune unequal to support it; and that £.30,000 had been already spent in the preliminary preparations for the defence.

My lords, I do admit, that all true genuine and unadulterated justice considers, with a certain degree of tenderness, the person, whom it is called to punish, and never oppresses those by the process, who ought not to be oppressed but by the sentence of the court, before which they are brought. The Commons have heard, indeed, with some degree of astonishment, that £.30,000 hath been laid out by Mr. Hastings in this business. We, who have some experience in the conduct of affairs of this nature, we, who profess to proceed with regard not to the œconomy so much as to the rigour of this prosecution, (and we are justified by our country in so doing) upon a collation and comparison of the public expenses with those, which the defendant is supposed to have incurred, are much surprised to hear it; we suppose, that his solicitors can give a good account to him of those expenses, that the thing is true, and that he has actually, through them, incurred this expense. We have nothing to do with this: but we shall remove any degree of uneasiness from your lordships' minds, and from our own, when we show you in the charge, which we shall bring before you this day, that one bribe only received by Mr. Hastings, the smallest of his bribes, or nearly the smallest, the bribe received from rajah Nobkisson, is alone more than equal to have paid all the charges Mr. Hastings is stated to have incurred: and, if this be the case, your lordships will not be made very uneasy in a case of bribery by finding, that you press upon the sources of peculation.

It has also been said, that we weary out the public patience in this cause. The House of Commons do not call upon your lordships to do any thing, of which they do not set the example. They have very lately sat in the Colchester committee as many, within one or two, days successively, as have been spent in this trial interruptedly in the course of two years. Every cause deserves, that it should be tried according to its nature and circumstances; and in the case of the Colchester committee, in the trial of paltry briberies of odd pounds, shillings, and pence, in the corruption of a returning officer, who is but a miller, they spent nearly the same number of days, that we have been inquiring into the ruin of kingdoms by the peculation and bribery of the chief governour of the provinces of Bengal, Bahar, and Orissa. Therefore, God forbid, that we should faint at thrice thirty days, if the proceedings should be drawn into such a length, when for a small crime as much time has been spent, as has yet been spent in this great cause.

Having now cleared the way with regard to the local and temporary circumstances of this case; having shown your lordships, that too much time has not been spent in it; having no reason to think from the time, which has hitherto been spent, that time will be unnecessarily spent in future, I trust your lordships will think, that time ought neither to be spared

nor squandered in this business; we will therefore proceed article by article, as far as the discretion of the House of Commons shall think fit for the justice of the case to limit the inquiry, or to extend it.

We are now going to bring before your lordships the sixth article. It is an article of charge of bribery and corruption against Mr. Hastings; but yet we must confess, that we feel some little difficulty *in limine*. We here appear in the name and character not only of representatives of the Commons of Great Britain, but representatives of the inhabitants of Bengal: and yet we have had lately come into our hands such ample certificates, such full testimonials, from every person, in whose cause we complain, that we shall appear to be in the strangest situation in the world,—the situation of persons complaining, who are disavowed by the persons, in whose name and character they complain. This would have been a very great difficulty in the beginning, especially as it is come before us in a flood-tide of panegyric. No encomium can be more exalted, or more beautifully expressed. No language can more strongly paint the perfect satisfaction, the entire acquiescence of all the nations of Bengal, and their wonderful admiration of the character of the person, whom we have brought as a criminal to your bar upon their part. I do admit, that it is a very awkward circumstance; but yet, at the same time, the same candour, which has induced the House of Commons to bring before you the bosom friends and confidants of Mr. Hastings as their evidence, will not suffer them to suppress or withhold for a moment from your lordships this universal voice of Bengal, as an attestation in Mr. Hastings's favour, and we shall produce it as a part of our evidence. Oh! my lords, consider the situation of a people, who are forced to mix their praises with their groans, who are forced to sign with hands, which have been in torture, and with the thumb-screws but just taken from them, an attestation in favour of the person, from whom all their sufferings have been derived. When we prove to you the things, that we shall prove, this will, I hope, give your lordships a full, conclusive, and satisfactory proof of the misery, to which these people have been reduced. You will see before you, what is so well expressed by one of our poets as the homage of tyrants, "that homage with the mouth, which the heart would fain deny, but dares not." Mr. Hastings has received that homage, and that homage we mean to present to your lordships; we mean to present it, because it will show your lordships clearly, that after Mr. Hastings has ransacked Bengal from one end to the other, and has used all the power, which he derives from having every friend and every dependant of his in every office from one end of that government to the other, he has not in all those panegyrics, those fine high-flown eastern encomiums, got one word of refutation, or one word of evidence against any charge whatever, which we produce against him. Every one knows, that in the course of criminal trials, when no evidence of *alibi* can be brought, when all the arts of the Old Bailey are exhausted, the last thing produced is evidence to character. His cause therefore is gone, when having ransacked Bengal he has nothing to say for his conduct, and at length appeals to his character. In those little papers, which are given us of our proceedings in our criminal courts, it is always an omen of what is to follow: after the evidence of a murder, a forgery, or robbery, it ends in his character.—He has an admirable character—I have known him from a boy; he is wonderfully good; he is the best of men; I would trust him with untold gold; and immediately follows, guilty, death. This is the way in which our courts' character is generally followed by sentence. The practice is not modern. Undoubtely Mr. Hastings has the example of criminals of high antiquity; for Caius Verres, Antonius, and every other man, who has been famous for the pillage and destruction of provinces, never failed to bring before their judges the attestations of the injured to their character. Voltaire says, "Les bons mots sont toujours redits." A similar occasion has here produced a similar conduct. He has got just the same character, as Caius Verres got in another cause; and the *laudationes*, which your lordships know always followed, to save trouble, we mean ourselves to give your lordships; we mean to give them with this strong presumption of guilt, that, in all this panegyric, there is not one word of defence to a single article of charge; they are mere lip-honours; but we think we derive from those panegyrics, which Mr. Hastings has had sent over as evidence to supply the total want of it, an indication of the impossibility of attaining it. Mr. Hastings has brought them here, and I must say we are under some difficulty about them, and the difficulty is this—we think we can produce before your lordships proofs of barbarity and peculation by Mr. Hastings: we have the proofs of them in specific provinces, where those proofs may be met by contrary proofs, or may lose their weight from a variety of circumstances. We thought we had got

the matter sure, that every thing was settled, that he could not escape us after he had himself confessed the bribes he had taken from the specific provinces. But in what condition are we now? We have from those specific provinces the strongest attestations, that there is not any credit to be paid to his own acknowledgments. In short, we have the complaints, concerning these crimes of Mr. Hastings, of the injured persons themselves: we have his own confessions: we shall produce both to your lordships. But these persons now declare, that not only their own complaints are totally unfounded, but that Mr. Hastings's confessions are not true, and not to be credited. These are circumstances, which your lordships will consider in the view you take of this wonderful body of attestation.

It is a pleasant thing to see in these addresses the different character and modes of eloquence of different countries. In those, that will be brought before your lordships, you will see the beauty of chaste European panegyric improved by degrees into high, oriental, exaggerated, and inflated metaphor. You will see, how the language is first written in English, then translated into Persian, and then re-translated into English. There may be something amusing to your lordships in this, and the beauty of these styles may, in this heavy investigation, tend to give a little gaiety and pleasure. We shall bring before you the European and Asiatic incense. You will have the perfume shops of the two countries.

One of the accusations, which we mean to bring against Mr. Hastings, is upon the part of the zemindar Radanaut, of the country of Dinagepore. Now hear what the zemindar says himself—"As it has been learned by me, the mutsuddies, and the respectable officers of my zemindary, that the ministers of England are displeased with the late governour, Warren Hastings, Esquire, upon the suspicion, that he oppressed us, took money from us by deceit and force, and ruined the country; therefore we, upon the strength of our religion, which we think it incumbent on and necessary for us to abide by, following the rules laid down in giving evidence, declare the particulars of the acts and deeds of Warren Hastings, Esquire, full of circumspection and caution, civility and justice, superiour to the conduct of the most learned; and by representing what is fact, wipe away the doubts, that have possessed the minds of the ministers of England: that Mr. Hastings is possessed of fidelity and confidence, and yielding protection to us; that he is clear of the contamination of mistrust and wrong, and his mind is free of covetousness, or avarice. During the time of his administration no one saw other conduct than that of protection to the husbandman, and justice. No inhabitant ever experienced afflictions; no one ever felt oppression from him; our reputations have always been guarded from attacks by his prudence, and our families have always been protected by his justice. He never omitted the smallest instance of kindness towards us, but healed the wounds of despair with the salve of consolation, by means of his benevolent and kind behaviour, never permitting one of us to sink in the pit of despondence; he supported every one by his goodness, overset the designs of evil-minded men by his authority, tied the hand of oppression with the strong bandage of justice, and by these means expanded the pleasing appearance of happiness and joy over us. He re-established justice and impartiality. We were, during his government, in the enjoyment of perfect happiness and ease, and many of us are thankful and satisfied. As Mr. Hastings was well acquainted with our manners and customs, he was always desirous, in every respect, of doing whatever would preserve our religious rites, and guard them against every kind of accident and injury, and at all times protected us. Whatever we have experienced from him, and whatever happened from him, we have written without deceit or exaggeration."

My lords, here is a panegyric; and, directly contrary to the usual mode of other accusers, we begin by producing the panegyrics, made upon the person, whom we accuse. We shall produce along with the charge, and give as evidence the panegyric and certificate of the persons, whom we suppose to have suffered these wrongs. We suffer ourselves even to abandon, what might be our last resource, his own confession, by showing, that one of the princes, from whom he confesses, that he took bribes, has given a certificate of the direct contrary.

All these things will have their weight upon your lordships' minds; and when we have put ourselves under this disadvantage (what disadvantage it is, your lordships will judge,) at least we shall stand acquitted of unfairness in charging him with crimes, directly contrary to the panegyrics in this paper contained. Indeed, I will say this for him, that general charge and loose accusation may be answered by loose and general panegyric, and that, if ours were of that nature, this panegyric would be sufficient to overset our accusation. But we come before your lordships in a different

manner, and upon different grounds. I am ordered by the Commons of Great Britain to support the charge, that they have made, and persevere in making, against Warren Hastings, Esquire, late governour-general of Bengal, and now a culprit at your bar: first, for having taken corruptly several bribes, and extorted by force, or under the power and colour of his office, several sums of money from the unhappy natives of Bengal.

The next article, which we shall bring before you, is, that he is not only personally corrupted, but that he has personally corrupted all the other servants of the company; those under him, whose corruptions he ought to have controulled, and those above him, whose business it was to controul his corruptions.

We purpose to make good to your lordships the first of these by submitting to you, that part of those sums, which are specified in the charge, were taken by him with his own hand, and in his own person; but that much the greater part have been taken from the natives by the instrumentality of his black agents, banyans, and other dependants; whose confidential connection with him, and whose agency, on his part, in corrupt transactions, if his counsel should be bold enough to challenge us to the proof, we shall fully prove before you.

The next part, and the second branch of his corruption, namely, what is commonly called his active corruption, distinguishing the personal under the name of passive, will appear from his having given, under colour of contracts, a number of corrupt and lucrative advantages, from a number of unauthorized and unreasonable grants, pensions, and allowances, by which he corrupted actively the whole service of the company. And, lastly, we shall show, that by establishing a universal connivance from one end of the service to the other, he has not only corrupted and contaminated it in all its parts, but bound it in a common league of iniquity to support mutually each other against the inquiry, that should detect, and the justice, that should punish, their offences. These two charges, namely, of his active, and passive corruption, we shall bring one after the other, as strongly and clearly illustrating, and as powerfully confirming, each other.

The first, which we shall bring before you, is his own passive corruption, so we commonly call it. Bribes are so little known in this country, that we can hardly get clear and specific technical names to distinguish them; but, in future, I am afraid, the conduct of Mr. Hastings will improve our law vocabulary. The first, then, of these offences, with which Mr. Hastings stands charged here, is receiving bribes himself, or through his banyans; every one of these are overt acts of the general charge of bribery, and they are every one of them, separately taken, substantive crimes. But whatever the criminal nature of these acts was—and the nature was very criminal, and the consequences to the country very dreadful, —yet we mean to prove to your lordships, that they were not single acts, that they were not acts committed, as opportunity offered, or as necessity tempted, or urged upon the occasion; but, that they are parts of a general systematic plan of corruption, for advancing his fortune at the expense of his integrity; that he has, for that purpose, not only taken the opportunity of his own power, but made whole establishments, altered and perverted others, and created complete revolutions in the country's government for the purpose of making the power, which ought to be subservient to legal government, subservient to corruption; that, when he could no longer cover these fraudulent proceedings by artifice, he endeavoured to justify them by principle. These artifices we mean to detect; these principles we mean to attack, and, with your lordships' aid, to demolish, destroy, and subvert for ever.

My lords, I must say, that in this business, which is a matter of collusion, concealment, and deceit, your lordships will, perhaps, not feel the same degree of interest as in the others. Hitherto, you have had before you crimes of dignity. You have had before you the ruin and expulsion of great and illustrious families; the breach of solemn public treaties; the merciless pillage and total subversion of the first houses in Asia: but the crimes, which are the most striking to the imagination, are not always the most pernicious in their effects: in these high eminent acts of domineering tyranny their very magnitude proves a sort of corrective to their virulence. The occasions, on which they can be exercised, are rare; the persons, upon whom they can be exercised, few; the persons, who can exercise them, in the nature of things, are not many. These high tragic acts of superiour overbearing tyranny are privileged crimes; they are the unhappy dreadful prerogative, they are the distinguished and incommunicable attributes, of superiour wickedness in eminent station.

But, my lords, when the vices of low, sordid, and illiberal minds infect that high situation, when theft, bribery, and peculation, attended with fraud, prevarication, falsehood, misrepresentation, and forgery; when all these

follow in one train: when these vices, which gender and spawn in dirt, and are nursed in dunghills, come and pollute with their slime that throne, which ought to be a seat of dignity and purity, the evil is much greater: it may operate daily and hourly; it is not only imitable but improvable, and it will be imitated, and will be improved, from the highest to the lowest, through all the gradations of a corrupt government. They are reptile vices. There are situations, in which the acts of the individual are of some moment, the example comparatively of little importance. In the other, the mischief of the example is infinite.

My lords, when once a governour-general receives bribes, he gives a signal to universal pillage to all the inferiour parts of the service.—The bridles upon hard-mouthed passion are removed, they are taken away, they are broken; fear and shame, the great guards to virtue next to conscience, are gone;—shame! how can it exist?—it will soon blush away its awkward sensibility; shame, my lords, cannot exist long when it is seen, that crimes, which naturally bring disgrace, are attended with all the outward symbols, characteristics, and rewards of honour and of virtue; when it is seen, that high station, great rank, general applause, vast wealth, follow the commission of peculation and bribery; is it to be believed, that men can long be ashamed of that, which they see to be the road to honour? As to fear, let a governour-general once take bribes, there is an end of all fear in the service. What have they to fear? Is it the man, whose example they follow, that is to bring them before a tribunal for their punishment?—Can he open any inquiry? he cannot; he, that opens a channel of inquiry under these circumstances, opens a high road to his own detection. Can he make any laws to prevent it? none; for he can make no laws to restrain that practice without the breach of his own laws immediately in his own conduct. If we once can admit, for a single instant, in a governour-general, a principle however defended, upon any pretence whatever, to receive bribes in consequence of his office, there is an end of all virtue, an end of the laws, and no hope left in the supreme justice of the country. We are sensible of all these difficulties; we have felt them, and perhaps it has required no small degree of exertion for us to get the better of these difficulties, which are thrown in our way by a governour-general accepting bribes, and thereby screening and protecting the whole service in such iniquitous proceedings.

With regard to this matter, we are to state to your lordships, in order to bring it fully and distinctly before you, what the nature of this distemper of bribery is in the Indian government. We are to state, what the laws and rules are, which have been opposed to prevent it, and the utter insufficiency of all, that have been proposed: to state the grievance, the instructions of the company, and government, the acts of parliament, the constructions upon the acts of parliament. We are to state to your lordships the particular situation of Mr. Hastings. We are to state the trust the company had in him for the prevention of all those evils; and then we are to prove, that every evil, that all those grievances, which the law intended to prevent, which there were covenants to restrain, and with respect to which there were encouragements to smooth and make easy the path of duty, Mr. Hastings was invested with a special, direct and immediate trust, to prevent.—We are to prove to your lordships, that he is the man, who, in his own person collectively, has done more mischief than all those persons, whose evil practices have produced all those laws, those regulations, and even his own appointment.

The first thing, that we shall do, is to state, and which we shall prove in evidence, that this vice of bribery was the antient, radical endemical, and ruinous distemper of the company's affairs in India, from the time of their first establishment there. Very often, there are no words, nor any description, which can adequately convey the state of a thing like the direct evidence of the thing itself, because the former might be suspected of exaggeration. You might think that, which was really fact, to be nothing but the colouring of the person, that explained it; and therefore I think, that it will be much better to give to your lordships here a direct state of the presidency at the time, when the company enacted those covenants, which Mr. Hastings entered into, and when they took those measures to prevent the very evils from persons placed in those very stations, and in those very circumstances, in which we charge Mr. Hastings with having committed the offences, we now bring before you.

I wish your lordships to know, that we are going to read a consultation of Lord Clive's, who was sent out for the express purpose of reforming the state of the company, in order to show the magnitude of the pecuniary corruptions, that prevailed in it.

"It is from a due sense of the regard we owe and profess to your interests and to our own honour, that we think it indispensably

necessary to lay open to your view a series of transactions too notoriously known to be suppressed, and too affecting to your interest, to the national character, and to the existence of the company in Bengal, to escape unnoticed and uncensured :—transactions, which seem to demonstrate, that every spring of this government was smeared with corruption, that principles of rapacity and oppression universally prevailed, and that every spark of sentiment and public spirit was lost and extinguished in the unbounded lust of unmerited wealth.

"To illustrate these positions we must exhibit to your view a most unpleasing variety of complaints, inquiries, accusations, and vindications, the particulars of which are entered in our proceedings, and the appendix ; assuring you, that we undertake this task with peculiar reluctance, from the personal regard we entertain for some of the gentlemen, whose characters will appear to be deeply affected.

"At Fort St. George we received the first advices of the demise of Meer Jaffier, and of Shuja Dowla's defeat. It was there firmly imagined, that no definitive measures would be taken, either in respect to a peace, or filling the vacancy in the nizamut, before our arrival ; as the Lapwing arrived in the month of January with your general letter, and the appointment of a committee with express powers to that purpose ; for the successful exertion of which the happiest occasion now offered. However, a contrary resolution prevailed in the council. The opportunity of acquiring immense fortunes was too inviting to be neglected, and the temptation too powerful to be resisted. A treaty was hastily drawn up by the board, or rather transcribed, with few unimportant additions, from that concluded with Meer Jaffier ; and a deputation, consisting of Messrs. Johnstone senior, Middleton, and Leycester, appointed to raise the natural son of the deceased nabob to the soubahdarry, in prejudice of the claim of the grandson : and for this measure such reasons are assigned as ought to have dictated a diametrically opposite resolution. Miran's son was a minor, which circumstance alone would have naturally brought the whole adminstration into our hands, at a juncture when it became indispensably necessary we should realize that shadow of power and influence, which having no solid foundation was exposed to the danger of being annihilated by the first stroke of adverse fortune. But this inconsistence was not regarded ; nor was it material to the views for precipitating the treaty, which was pressed on the young nabob at the first interview, in so earnest and indelicate a manner, as highly disgusted him and chagrined his ministers ; while not a single rupee was stipulated for the company, whose interests were sacrificed, that their servants might revel in the spoils of a treasury before impoverished, but now totally exhausted.

"This scene of corruption was first disclosed, at a visit the nabob was paid, to Lord Clive and the gentlemen of the committee a few days after our arrival. He there delivered to his lordship a letter filled with bitter complaints of the insults and indignities he had been exposed to, and the embezzlement of near 20 lacks of rupees, issued from his treasury for purposes unknown during the late negotiations. So public a complaint could not be disregarded, and it soon produced an inquiry. We referred the letter to the board, in expectation of obtaining a satisfactory account of the application of this money, and were answered only by a warm remonstrance entered by Mr. Leycester against that very nabob, in whose elevation he boasts of having been a principal agent.

"Mahomed Reza Cawn, the naib soubah, was then called upon to account for this large disbursement from the treasury ; and he soon delivered to the committee the very extraordinary narrative entered in our proceedings the 6th of June, wherein he specifies the several names and sums, by whom paid, and to whom, whether in cash, bills, or obligations. So precise, so accurate an account as this of money for secret and venal services was never, we believe, before this period exhibited to the honourable court of directors, at least never vouched by such undeniable testimony and authentic documents : by Juggut Seet, who himself was obliged to contribute largely to the sums demanded ; by Moolyram, who was employed, by Mr. Johnstone in all those pecuniary transactions ; by the nabob and Mahomed Reza Cawn, who were the heaviest sufferers ; and, lastly, by the confession of the gentlemen themselves, whose names are specified in the distribution list.

"Juggut Seet expressly declared in his narrative, that the sum, which he agreed to pay the deputation, amounting to 125,000 rupees, was extorted by menaces ; and since the close of our inquiry, and the opinions we delivered in the proceedings of the 21st June, it fully appears, that the presents from the nabob and Mahomed Reza Cawn, exceeding the immense sum of 17 lacks, were not the voluntary offerings of gratitude, but contributions levied on the weakness of the government, and violently exacted from the dependent state and timid disposition of the minister. The charge indeed

is denied on the one hand, as well as affirmed on the other. Your honourable board must therefore determine, how far the circumstance of extortion may aggravate the crime of disobedience to your positive orders; the exposing the government in a manner to sale, and receiving the infamous wages of corruption from opposite parties and contending interests. We speak with boldness, because we speak from conviction, founded upon indubitable facts, that besides the above sums specified in the distribution account to the amount of 228,125 pounds sterling, there was likewise to the value of several lacks of rupees procured from Nundcomar and Roydullub, each of whom aspired at and obtained a promise of that very employment it was predetermined to bestow on Mahomed Reza Cawn.

(Signed at the end) "Clive.—Wm B. Sumner.—John Carnac.—H. Verelst.—Fras Sykes."

This paper cannot be denied to be a paper of weight and authenticity, because it is signed by a gentleman now in this house, who sits on one side of the gentleman at your bar, as his bail.—This grievance, therefore,—so authenticated, so great, and described in so many circumstances, I think it might be sufficient for me, in this part of the business, to show, was, when Mr. Hastings was sent to India, a prevalent evil.

But, my lords, it is necessary, that I should show to you something more, because, *primâ fronte*, this is some exculpation of Mr. Hastings: for, if he was only a partaker in a general misconduct, it was rather *vitium loci et vitium temporis*, than *vitium hominis*. This might be said in his exculpation. But, I am next to show your lordships the means, which the company took for removing this grievance; and, that Mr. Hastings's peculiar trust—the great specific ground of his appointment, was a confidence, that he would eradicate this very evil, of which we are going to prove, that he has been one of the principal promoters. I wish your lordships to advert to one particular circumstance, namely, that the two persons, who were bidders at this time, and at this auction of government, for the favour and countenance of the presidency at Calcutta, were Mahomed Reza Khàn, and rajah Nundcomar. I wish your lordships to recollect this, by and by, when we shall bring before you the very same two persons, who in the same sort of transaction, and in circumstances exactly similar, or very nearly so, were candidates for the favour of Mr. Hastings.

My lords, our next step will be to show you, that the company, in 1768, had made a covenant, expressly forbidding the taking of presents of above £.400 value, in each present, by the governour-general. I take it for granted, this will not be much litigated; they renewed and enforced that with other covenants, and other instructions; and at last came an act of parliament, in the clearest, the most definite, the most specific words, that all the wisdom of the legislature, intent upon the eradication of this evil, could use, to prevent the receiving of presents.

My lords, I think it is necessary to state, that there has been some little difficulty concerning this word *presents*. Bribery and extortion have been covered by the name of presents, and the authority and practice of the East has been adduced, as a palliation of the crime. My lords, no authority of the East will be a palliation of the breach of laws enacted in the West: and to those laws of the West, and not the vicious customs of the East, we insist upon making Mr. Hastings liable. But do not your lordships see, that this is an entire mistake, that there never was any custom of the East for it? I do not mean vicious practices and customs, which it is the business of good laws and good customs to eradicate. There are three species of presents known in the East: two of them, payments of money, known to be legal; and the other perfectly illegal, and which has a name exactly expressing it in the manner our language does. It is necessary, that your lordships should see, that Mr. Hastings has made use of a perversion of the names of authorized gifts, to cover the most abominable and prostituted bribery. The first of these presents is known in the country by the name of peshcush: this peshcush is a fine paid, upon the grant of lands, to the sovereign, or whoever grants them. The second is the nuzzer, or nuzzeranah, which is a tribute of acknowledgment from an inferiour to a superiour. The last is called reshwâat, in the Persian language, that is to say, a bribe, or sum of money clandestinely and corruptly taken; and is as much distinguished from the others, as, in the English language, a fine or acknowledgment is distinguished from a bribe. To show your lordships this, we shall give in evidence, that whenever a peshcush or fine is paid, it is a sum of money publicly paid, and paid in proportion to the grant; and that the sum is entered upon the very grant itself. We shall prove the nuzzer is, in the same manner, entered, and that all legal fees are endorsed upon the body of the grant, for which they are taken: and that they are no more in the East,

than in the West, any kind of colour or pretence for corrupt acts, which are known by the circumstance of their being clandestinely taken, and which are acknowledged and confessed to be illegal and corrupt. Having stated, that Mr. Hastings, in some of the evidence, that we shall produce, endeavours to confound these three things, I am only to remark, that the nuzzer is generally a very small sum of money, that it sometimes amounts to one gold mohr; that sometimes it is less, and that, in all the records of the company, I have never known it exceed one gold mohr, or about thirty-five shillings; passing by the fifty gold mohrs, which were given to Mr Hastings by Cheit Sing, and a hundred gold mohrs, which were given to the Mogul, as a nuzzer, by Mahomed Ali, nabob of Arcot.

The company seeing, that this nuzzer, though small in each sum, might amount at last to a large tax upon the country, (and it did so in fact) thought proper to prohibit any sum of money to be taken upon any pretext whatever; and the company, in the year 1775, did expressly explode the whole doctrine of peshcush, nuzzer, and every other private lucrative emolument, under whatever name to be taken by the governour-general: and did expressly send out an order, that *that* was the construction of the act; and that he was not even to take a nuzzer. Thus we shall show, that that act had totally cut up the whole system of bribery and corruption; and that Mr. Hastings had no sort of colour whatever for taking the money, which we shall prove he has taken.

I know that positive prohibitions, that acts of parliament, that covenants, are things of very little validity indeed, as long as all the means of corruption are left in power, and all the temptations to corrupt profit are left in poverty. I should really think, that the company deserved to be ill served, if they had not annexed such appointments to great trusts as might secure the persons entrusted from the temptations of unlawful emolument; and, what in all cases is the greatest security, given a lawful gratification to the natural passions of men. Matrimony is to be used as a true remedy against a vicious course of profligate manners: fair and lawful emoluments, and the just profits of office, are opposed to the unlawful means, which might be made use of to supply them; for, in truth, I am ready to agree that for any man to expect a series of sacrifices without a return in blessings, to expect labour without a prospect of reward, and fatigue without any means of securing rest, is an unreasonable demand in any human creature from another. Those, who trust, that they shall find in men uncommon and heroic virtues, are themselves endeavouring to have nothing paid them but the common returns of the worst parts of human infirmity.—and, therefore, I shall show your lordships, that the company did provide large, ample, abundant means for supporting the governour-general:—that Lord Clive, in the year 1765, and the council with him, of which Mr. Sumner, I am glad and proud to say, was one, did fix such an allowance as they thought a sufficient security to the governour-general against the temptations attendant upon his situation; and, therefore, after they had fixed this sum, they say,—"that although by this means the governour will not be able to amass a million or half a million in the space of two or three years, yet he will acquire a very handsome independency, and be in that very situation, which a man of honour and true zeal for the service would wish to possess. Thus situated, he may defy all opposition in council; he will have nothing to ask; nothing to propose but what he wishes for the advantage of his employers: he may defy the law, because there can be no foundation for a bill of discovery; and he may defy the obloquy of the world, because there can be nothing censurable in his conduct. In short, if stability can be insured to such a government as this, where riches have been acquired in abundance in a small space of time, by all ways and means, and by men with or without capacities, it must be effected by a governour thus restricted."—That is, a governour restricted from every emolument but that of his salary. I must remark, that this salary and these emoluments were not settled upon the vague speculations of men taking the measure of their necessities for India from the manners of England; but it was fixed by the council themselves; fixed in India; fixed by those, who knew and were in the situation of the governour-general, and who knew what was necessary to support his dignity and to preserve him from the temptation of corruption: and they have laid open to you such a body of advantage arising from it, as would lead any man, who had a regard to his honour or conscience, to think himself happy in having such a provision made for him, and, at the same time, every temptation to act corruptly removed far from him.

The emoluments of the office, though reduced from the original plan, which Lord Clive had proposed, may be computed at near £.30,000 a year, when Mr. Hastings was president; £.22,000 in certain money, and the

rest in other advantages. Whatever it was, I have shown, that it was thought sufficient by those, who were the best judges, and who in carving for others, were carving for themselves their own allowance at the time. But, my lords, I am to give a better opinion of the sufficiency of that provision to guard against the temptation, out of Mr. Hastings's own mouth. He says, in his letter to the court of directors, "Although I disclaim the consideration of my own interest in these speculations† * * * * * * * I have catched the desire of applause in public life."

Here Mr. Hastings confesses, that the emoluments affixed to office were not only sufficient for the purposes and ends, which the nature of his office demanded, and the support of present dignity, but that they were sufficient to secure him, in a very few years, a comfortable retreat; but his object, in wishing to hold his office long, was, *to catch applause in public life*. What an unfortunate man is he, who has so often told us, in so many places, and through so many mouths, that, after fourteen years' possession of an office, which was to make him a comfortable fortune in a few years, he is at length bankrupt in fortune, and, for his applause in public life, is now at your lordships' bar, and his accuser is his country. This, my lords, is to be unfortunate; but there are some misfortunes, that never do or ever can arrive but through crimes. He was a deserter from the path of honour; at the turning of the two ways, he made a glorious choice; he caught at the applause of ambition—which though I am ready to consent is not virtue, yet surely a generous ambition for applause for public services in life is one of the best counterfeits of virtue, and supplies its place in some degree; and it adds a lustre to real virtue where it exists as the substratum of it. Human nature, while it is made as it is, never can wholly repudiate it for its imperfection, because there is something yet more perfect. But what shall we say to the deserter of that cause, who, having glory and honour before him, has chosen to plunge himself into the downward road to sordid riches?

My lords, I have shown the grievances, that existed. I have shown the means, that existed to put Mr. Hastings beyond a temptation to those practices, of which we accuse him, even in his own opinion, if he will not follow his example in the House of Commons, and disavow this letter, as he has done his defence before them, and say he never wrote it.

† Document not found.

That situation, which was to afford him a comfortable fortune in a few years, he has held for many years; and therefore he has not one excuse to make for himself: but I shall show your lordships much greater and stronger proofs, that will lean heavy upon him in the day of your sentence. The first, the peculiar trust that was put in him, was to redress all those grievances.

My lords, I have stated to you the condition of India in 1765. You may suppose, that the means, that were taken—the regulations, that were made by the company at that period of time, had operated their effect; and that by the beginning of the year 1772, when Mr. Hastings came first to his government, these evils did not then require, perhaps, so vigorous an example or so much diligence in putting an end to them: but, my lords, I have to show you a very melancholy truth, that, notwithstanding all these means, the company was of opinion, that all these disorders had increased; and, accordingly, they say, "Without entering into all the grievous circumstances of this letter," [which was wrote on the 10th of April 1773:]—"we wish we could refute the observation, that almost every attempt made by us and our administration at your presidency for reforming abuses has rather increased them, and added to the misery of a country we are so anxious to protect and cherish." They say, that "when oppression pervades the whole country, when youths have been suffered, with impunity, to exercise sovereign jurisdiction over the natives, and to acquire rapid fortunes by monopolizing of commerce, it cannot be a wonder to us or yourselves, that Dadney merchants do not come forward to contract with the company, that the manufactures find their way through foreign channels, or that our investments are at once enormously dear, and of a debased quality. "It is evident then, that the evils, which have been so destructive to us, lie too deep for any partial plans to reach or correct; it is therefore our resolution to aim at the root of those evils, and we are happy in having reason to believe, that in every just and necessary regulation we shall meet with the approbation and support of the legislature, who consider the public as materially interested in the company's prosperity."

This is to show your lordships, that Mr. Hastings was armed with great powers to correct great abuses, and that there was reposed in him a special trust for that purpose. And now I shall show, by the twenty-fifth paragraph of the same letter, that they intrusted Mr.

Hastings with this very great power from some particular hope they had, not only of his abstaining himself, which is a thing taken for granted, but of his restraining abuses through every part of the service; and therefore, they say, "that in order to effectuate this great end, the first step must be to restore perfect obedience and due subordination to your administration. Our governour and council must re-assume and exercise their delegated powers upon every just occasion; punish delinquents, cherish the meritorious, discountenance that luxury and dissipation, which, to the reproach of government, prevailed in Bengal. Our president, Mr. Hastings, we trust, will set the example of temperance, œconomy, and application; and upon this, we are sensible, much will depend. And here we take occasion to indulge the pleasure we have in acknowledging Mr. Hastings's services upon the coast of Coromandel, in constructing with equal labour and ability the plan, which has so much improved our investments there; and as we are persuaded he will persevere in the same laudable pursuit through every branch of our affairs in Bengal, he, in return, may depend on the steady support and favour of his employers." Here are not only laws to restrain abuse; here are not only salaries to prevent the temptation to it; but here are praises to animate and encourage him; here is what very few men, even bad in other respects, have resisted; here is a great trust put in him to call upon him with particular vigour and exertion to prevent all abuses through the settlement, and particularly these abuses of corruption. Much trust is put in his frugality, his order, his management of his private affairs; and from thence they hope, that he would not ruin his own fortune, but improve it by honourable means; and teach the company's servants the same order and management, in order to free them from temptation to rapacity in their own particular situations. There have been known to be men, otherwise corrupt and vicious, who, when great trust was put in them, have called forth principles of honour latent in their minds; and men, who were nursed in a manner in corruption, have been not only great reformers by institution, but greater reformers by the example of their own conduct. Then I am to show, that soon after his coming to that government, there were means given him instantly of realizing those hopes and expectations by putting into his hands several arduous and several difficult commissions.

My lords, in the year 1772, the company had received alarming advices of many disorders throughout the country: there were likewise at the same time circumstances in the state of the government, upon which they thought it necessary to make new regulations. The famine, which prevailed in, and devastated Bengal, and the ill use, that was made of that calamity to aggravate the distress for the advantage of individuals, produced a great many complaints: some true, some exaggerated; but universally spread, as I believe is in the memory of those, who are not very young among us. This obliged the company to a very serious consideration of an affair, which dishonoured and disgraced their government, not only at home, but through all the countries in Europe, much more than perhaps even more grievous and real oppressions, that were exercised under them. It had alarmed their feelings, it had been marked, and had called the attention of the public upon them in an eminent manner.

Your lordships remember the death of Jaffier Ally Khân, the first of those soubahs, who introduced the English power into Bengal. He died about four or five years before this period; he was succeeded by two of his sons, who succeeded to one another in a very rapid succession. The first was the person, of whom we have read an account to you. He was the natural son of the nabob by a person called Munny Begum, who, for the corrupt gifts, the circumstances of which we have recited, had, in prejudice of the lawful issue of the nabob, been raised to the musnud; but as bastard slips, it is said in King Richard (an abuse of a scripture phrase) do not take deep root, this bastard slip Nudjheem Dowla shortly died, and the legitimate son Syel O'Dowlah succeeded him. After him another legitimate son Mobareck ul Dowlah succeeded in a minority. When I say *succeeded*, I wish your lordships to understand, that there is no regular succession in the office of soubah, or viceroy of the kingdom; but, in general, succession has been considered, and persons have been put in that place upon some principles resembling a regular succession. That regular succession had been broken in favour of a natural son, and the mother of that natural son did obtain the superiourity in the female part of the family for a time.

In consequence of these two circumstances, namely, the famine, and the abuses, that were supposed to arise from it; and from the circumstance of the minority of Mobareck ul Dowlah, who now reigns or appears to reign, in consequence of these two circumstances, the company give two sets of orders.

The first order related to Mahomed Reza

Khân, who was (as your lordships remember I took, in the beginning of this affair, means of explaining) lord deputy of the province under the native government, the English holding the dewannee; and deputy dewan, or high steward, under the name of the English, and had the command of the whole revenue; and who was accused before the company (the channel of which accusation we now learn) of having aggravated that famine by a monopoly for his own benefit. The company, upon these loose and general charges, ordered, that he should be divested of his office, that he should be brought down to Calcutta, and there be obliged to render an account of his conduct.

The next regulation they made was concerning the effective government of the country, which was become vacant by the removal of Mahomed Reza Khân. The offices which he held were in effect these:—he was guardian to the nabob by the appointment of the company; he had the care and management of his family; he had the care of the public justice; and he represented that shadow of government to foreign nations, which it was the policy of the company, at that time, to keep up. This was the person, whom Mr. Hastings was ordered to remove; in consequence of which removal all these offices were to be supplied—of guardian of the nabob's person, and manager of his family; of chief magistrate, and of representative of the fallen dignity of the native government to the foreign nations, which traded to Bengal.

To these orders was added an instruction of a very remarkable nature, which was a third trust, that was given to Mr. Hastings; that during the nabob's minority he should reduce the annual allowance, which was thirty-two lacks, to sixteen; and that to prevent the abuse of this restricted sum, and to prevent its being directed by the minister's authority to other purposes than that, for which the company allowed it, (that is to say, allowed him out of what was his own) of these sixteen lacks an account was to be regularly kept as a check upon the person so appointed, which account was ordered to be transmitted to Calcutta, and to be sent to England.

Now, we are to show your lordships, what Mr. Hastings's conduct was upon all these occasions; and, for this, we mean to produce testimony recorded in the company's books, and authentic documents taken from the public offices of that country. At the same time I do admit, that there never was a positive testimony, that did not stand something in need of the support of presumption; for as we know, that witnesses may be perjured; and, as we know, that documents can be forged, we have recourse to a known principle in the laws of all countries, that circumstances cannot lie; and, therefore, if the testimony, that is given, was ever so clear and positive, yet, if it is contrary to the circumstances of the country; if it is contrary to the circumstances of the facts, to which it alludes; if the deposition is totally adverse and alien to the characters of the persons; then I will say, that though the testimonies should be many, though they should be consistent, though they should be clear, yet they will still leave some degree of hesitation and doubt upon every mind timorous in the execution of justice, as every mind ought to be. If, for instance, ten witnesses were to swear, that the chief justice of England, that the lord high chancellour, or the archbishop of Canterbury, was seen in the robes of his function, at noon day, robbing upon the highway, it is not the clearness, the weight, the authority of testimonies, that could make me believe it; I should attribute it to any cause, either corruption, mistake, errour, or madness, rather than believe that fact. Why? because it is totally alien to the character of the persons, the situation, the circumstances, and to all the rules of probability. But if, on the contrary, the crime charged has a perfect relation with the person, with his known conduct, with his known habits, with the situation and circumstances of the place, that he is in, and with the very corrupt inherent nature of the act, that he does, then much less proof than we are able to produce will serve; and according to the nature and strength of the presumptions arising from the inherent nature of a vicious principle, and vicious motives in the act, will be strengthened the weakest evidence, or, if it comes to a sufficient height, the whole burthen of proof will be turned upon the party accused. And thus we shall think ourselves bound to show your lordships, in every step of this proceeding, that there is an inherent presumption of corruption in every act. We shall show the presumptions, which preceded: we shall show the presumptions, which accompanied the proof; and these, with the subsequent presumptions, will make it impossible to disbelieve them. Such a body of proof was never given upon any such occasion; and it is such proof as will prevail against the whole voice of corruption, that amazing, active, diligent, spreading voice, which has been made, by buzzing in every part of this country, sometimes to sound like the public voice; it will put it to silence by showing, that

your lordships have proceeded upon the strongest evidence, active and passive.

First, Mr. Hastings received a positive order to seize upon Mahomed Reza Khân. That order he executed with a military promptitude of obedience, which will show your lordships, what are the services, which are congenial to his own mind, and which find in him always a ready acquiescence; a faithful agent, and a spirited instrument in the execution. The very day after he received the order, he sent up, privately, without communicating with the council, from whom he was not ordered to keep this proceeding a secret; he sent up, and found that great and respectable man, and respectable magistrate, who was in all those high offices, which I have stated; and if I was to compare them to circumstances and situations in this country, I should say, he had united in himself the character of first lord of the treasury; the character of chief justice; the character of lord high chancellour, and the character of archbishop of Canterbury; a man of great gravity, dignity, and authority, and advanced in years; had once £.100,000 a year for the support of his dignity; and had at that time £.50,000. This man, sitting in his garden, reposing himself after the toils of his situation; for he was one of the most laborious men in the world; was suddenly arrested, and without a moment's respite, dragged down to Calcutta, and there by Mr. Hastings (exceeding the orders of the company) confined near two years, under a guard of soldiers. Mr. Hastings kept this great man for several months without even attempting the trial upon him. How he tried him afterwards your lordships may probably in the course of this business inquire: and you will then judge from the circumstances of that trial, that, as he was not tried for his crime, so neither was he acquitted for his innocence;—but, at present, I leave him in that situation. Mr. Hastings, unknown to the council, having executed the orders of the company in the last degree of rigour to this unhappy man, keeps him in that situation, without a trial, under a guard, separated from his country, disgraced, and dishonoured, and by Mr. Hastings's express order not suffered either to make a visit or receive a visitor.

There was another commission for Mr. Hastings contained in these orders. The company, because they were of opinion, that justice could not be easily obtained while the first situations of the country were filled with this man's adherents, desired Mr. Hastings to displace them; leaving him a very large power, and confiding in his justice, prudence, and impartiality, not to abuse a trust of such delicacy. But, we shall prove to your lordships, that Mr. Hastings thought it necessary to turn out, from the highest to the lowest, several hundreds of people for no other reason, than that they had been put in their employments by that very man, whom the English government had formerly placed there. If we were to insist, that we could not possibly try Mr. Hastings, or come at his wickedness, until we had eradicated his influence in Bengal, and left not one man in it, who was, during his government, in any place or office whatever; yet, though we should readily admit, that we could not do the whole without it, at the same time, rather than make a general massacre of every person presumed to be under his influence, we would leave some of his crimes unproved. He did avow and declare, that, unless he turned all these persons out of their offices, he could never hope to come at the truth of any charges against Mahomed Reza Khân; against whom no specific charge had been made. Yet upon loose and general charges did he seize upon this man, confine him in this manner, and every person, who derived any place or authority from him, high or low, was turned out. Mr. Hastings had, in the company's orders, something to justify him in rigour, but he had likewise a prudential power over that rigour; and he not only treated this man in the manner described, but every human creature connected with him, as if they had been all guilty, without any charge whatever against them. These are his reasons for taking this extraordinary step.

"I pretend not to enter into the views of others. My own were these. Mahomed Reza Khân's influence still prevailed generally throughout the country. In the nabob's household, and at the capital, it was scarce affected by his present disgrace. His favour was still courted, and his anger dreaded. Who, under such discouragements, would give information or evidence against him? His agents and creatures filled every office of the nizamut and dewannee. How was the truth of his conduct to be investigated by these? It would be superfluous to add other arguments to show the necessity of prefacing the inquiry by breaking his influence, removing his dependants, and putting the direction of all the affairs, which had been committed to his care, into the hands of the most powerful or active of his enemies."

My lords, if we, of the House of Commons, were to desire and to compel the East-India

Company, or to address the crown, to remove according to their several situations and several capacities every creature, that had been put into office by Mr. Hastings, because we could otherwise make no inquiry into his conduct, should we not be justified, by his own example, in insisting upon the removal of every creature of the reigning power before we could inquire into his conduct? We have not done that, though we feel, as he felt, great disadvantages in proceeding in the inquiry, while every situation in Bengal is notoriously held by his creatures, always excepting the first of all, but which we could show is nothing under such circumstances. Then what do I infer from this? from his obedience to the orders of the company carried so much beyond necessity, and prosecuted with so much rigour; from the inquiry being suspended for so long a time; from every person in office being removed from his situation; from all these precautions being used as prefatory to the inquiry, when he himself says, that after he had used all these means, he found not the least benefit and advantage from them? The use I mean to make of this is, to let your lordships see the great probability and presumption, that Mr. Hastings, finding himself in the very self-same situation, that had occurred the year before, when Nundcomar was sold to Mahomed Reza Khân, of selling Mahomed Reza Khân to Nundcomar, made a corrupt use of it, and that as Mahomed Reza Khân was not treated with severity for his crimes, so neither was he acquitted for his innocence. The company had given Mr. Hastings severe orders, and very severely had he executed them. The company gave him no orders not to institute a present inquiry; but he, under pretence of business, neglected that inquiry, and suffered this man to languish in prison to the utter ruin of his fortune.

We have in a part shown your lordships what Mr. Hastings's own manner of proceeding with regard to a public delinquent is; but at present we leave Mahomed Reza Khân where he was. Do your lordships think, that there is no presumption of Mr. Hastings having a corrupt view in this business, and of his having put this great man, who was supposed to be of immense wealth, under contributions? Mr. Hastings never trusted his colleagues in this proceeding, and what reason does he give? why, he supposed, that they must be bribed by Mahomed Reza Khân; for, says he, as I did not know their characters at that time, I did not know whether Mahomed Reza Khân had not secured them to his interest by the known ways, in which great men in the East secure men to their interest. He never trusted his colleagues with the secret; and the person, that he employed to prosecute Mahomed Reza Khân, was his bitter enemy, Nundcomar. I will not go the length of saying, that the circumstance of enmity disables a person from being a prosecutor; under some circumstances it renders a man incompetent to be a witness; but this I know, that the circumstance of having no other person to rely upon in a charge against any man, but his enemy, and of having no other principle to go upon than what is supposed to be derived out of that enmity, must form some considerable suspicion against the proceeding: but in this he was justified by the company; for Nundcomar, the great rival of Mahomed Reza Khân, was in the worst situation with the company as to his credit. This Nundcomar's politics in the country had been by Mr. Hastings himself, and by several persons joined with him, cruelly represented to the company; and accordingly he stood so ill with them by reason of Mr. Hastings's representations and those of his predecessours, that the company ordered and directed, that, if he could be of any use in the inquiry into Mahomed Reza Khân's conduct, some reward should be given him suitable to his services; but they caution Mr. Hastings at the same time against giving him any trust, which he might employ to the disadvantage of the company. Now, Mr. Hastings began, before he could experience any service from him, by giving him his reward, and not the base reward of a base service, *money*, but every trust and power, which he was prohibited from giving him. Having turned out every one of Mahomed Reza Khân's dependants, he filled every office, as he avows, with the creatures of Nundcomar. Now when he uses a cruel and rigorous obedience in the case of Mahomed Reza Khân, when he breaks through the principles of his former conduct with regard to Nundcomar, when he gives *him*, Nundcomar, trust, whom he was cautioned not to trust, and when he gives him that reward before any serivce could be done; I say, when he does this in violation of the company's orders and his own principles, it is the strongest evidence, that he now found them in the situation, in which they were in 1765, when bribes were notoriously taken, and that each party was mutually sold to the other, and faith kept with neither. The situation, in which Mr. Hastings thus placed himself, should have been dreaded by him of all things, because he knew it was a situation, in which the most

outrageous corruption had taken place before.

There is another circumstance, which serves to show, that in the persecution of these great men, and the persons employed by them, he could have no other view than to extort money from them. There was a person of the name of Shitabroy, who had a great share in the conduct of the revenues of Bahar. Mr. Hastings, in the letter to the company, complaining of the state of their affairs, and saying, that there were great and suspicious balances in the kingdom of Bahar, does not even name the name of Shitabroy. There was an English counsellour, a particular friend of Mr. Hastings's there, under whose controul Shitabroy acted. Without any charges, without any orders from the company, Mr. Hastings dragged down that same Shitabroy, and in the same ignominious prison he kept him the same length of time, that is, one year and three months, without trial; and when the trial came on, there was as much appearance of collusion in the trial as there was of rigour in the previous process. This is the manner, in which Mr. Hastings executed the command of the company for removing Mahomed Reza Khân.

When a successour to Mahomed Reza Khân was to be appointed, your lordships naturally expect from the character I have given of him, and from the nature of his functions, that Mr. Hastings would be particularly precise, would use the utmost possible care in nominating a person to succeed him, who might fulfil the ends and objects of his employment; and be, at the same time, beyond all doubt and suspicion of corruption in any way whatever. Let us now see how he fills up that office thus vacant. When the company ordered Mahomed Reza Khân to be dispossessed of his office, they ordered at the same time, that the salary of his successour should be reduced; that £.30,000, was a sufficient recompense for that office. Your lordships will see by the allowance for the office, even reduced as it was, that they expected some man of great eminence, of great consequence, and fit for those great and various trusts. They cut off the dewannee from it, that is, the collection of the revenues; and having lessened his labours, they lessened his reward: they ordered, that this person, who was to be guardian of the nabob in his minority, and who was to represent the government, should have but £.30,000. The order they give is this:

"And that as Mahomed Reza Khân can no longer be considered by us as one, to whom such a power can safely be committed, we trust to your local knowledge the selection of some person well qualified for the affairs of government, and of whose attachment to the company you shall be well assured.—Such person you will recommend to the nabob, to succeed Mahomed Reza, as minister of the government, and guardian of the nabob's minority; and we persuade ourselves, that the nabob will pay such regard to your recommendation as to invest him with the necessary power and authority.

"As the advantages, which the company may receive from the appointment of such minister, will depend on his readiness to promote our views and advance our interest, we are willing to allow him so liberal a gratification as may excite his zeal, and insure his attachment to the company; we therefore empower you to grant to the person, whom you shall think worthy of this trust, an annual allowance, not exceeding three lacks of rupees, which we consider not only as a munificent reward for any services he shall render the company, but sufficient to enable him to support his station with suitable rank and dignity. And here we must add, that in the choice you shall make of a person to be the active minister of the nabob's government, we hope and trust, that you will show yourselves worthy of the confidence we have placed in you by being actuated therein by no other motives than those of the public good, and the safety and interest of the company."

My lords, here they have given a reward, and they have described a person fit to succeed in all capacities the man, whom they had thought fit to depose. Now, as we have seen how Mr. Hastings obeyed the company's orders in the manner of removing Mahomed Reza Khân from his office; let us see how he obeyed their order for filling it up. Your lordships will naturally suppose, that he made all the orders of Mahomedan and Hindoo princes to pass in strict review before him; that he had considered their age, authority, dignity, the goodness of their manners; and upon the collation of all these circumstances has chosen a person fit to be a regent to guard the nabob's minority from all rapacity whatever, and fit to instruct him in every thing. I will give your lordships Mr. Hastings's own idea of the person necessary to fill such offices:

"That his rank ought to be such, as at least ought not to wound the nabob's honour, or lessen his credit in the estimation of the people by the magisterial command, which

the new guardian must exercise over him; with abilities and vigour of mind equal to the support of that authority; and the world will expect, that the guardian be especially qualified by his own acquired endowments to discharge the duties of that relation in the education of his young pupil, to inspire him with sentiments suitable to his birth, and to instruct him in the principles of his religion."

This, upon another occasion, is Mr. Hastings's sense of the man, who ought to be placed in that situation of trust, in which the company ordered him to place him. Did Mr. Hastings obey that order? No, my lords, he appointed no man to fill that office. What, no man at all! No; he appointed no person at all in the sense, which is mentioned there, which constantly describes a person at least of the male sex: he appointed a woman to fill that office; he appointed a woman in a country where no woman can be seen, where no woman can be spoken to by any one without a curtain between them; for all these various duties, requiring all these qualifications described by himself, he appointed a woman. Do you want more proof than this violent transgression of the company's orders upon that occasion, that some corrupt motive must have influenced him?

My lords, it is necessary for me to state the situation of the family, that you may judge from thence of the corrupt motives of Mr. Hastings's proceedings. The nabob Jaffier Ali Khân had, among the women of his seraglio, a person called Munny Begum; she was a dancing girl, whom he had seen at some entertainment; and as he was of a licentious turn, this dancing girl, in the course of her profession as a prostitute, so far inveigled the nabob, that having a child, or pretending to have had a child by him, he brought her into the seraglio; and the company's servants sold to that son the succession of that father. This woman had been sold as a slave; her profession a dancer, her occupation a prostitute. And, my lords, this woman having put her natural son, as we state, and shall prove, in the place of the legitimate offspring of the nabob; having got him placed by the company's servants on the musnud, she came to be at the head of that part of the household, which relates to the women; which is a large and considerable trust in a country where polygamy is admitted, and where women of great rank may possibly be attended by two thousand of the same sex in inferiour situations. As soon as the legitimate son of the nabob came to the musnud, there was no ground for keeping this woman any longer in that situation; and upon an application of the company to Mahomed Reza Khân, to know who ought to have the right of superiourity; he answered, as he ought to have done, that though all the women of the seraglio ought to have honour, yet the mother of the nabob ought to have the superiourity of it. Therefore, this woman was removed, and the mother of the nabob was placed in her situation. In that situation Mr. Hastings found the seraglio. If his duties had gone no further than the regulation of an eastern household, he ought to have kept the nabob's mother there by the rules of that country.

What did he do? Not satisfied with giving to this prostitute every favour, that she could desire, (and money must be the natural object of such a person) Mr. Hastings deposes the nabob's own mother, turns her out of the employment, and puts at the head of the seraglio this prostitute, who at the best, in relation to him, could only be a step-mother. If you heard no more, do your lordships want any thing further to convince you, that this must be a violent, atrocious, and corrupt act? suppose it had gone no further than the seraglio. But when I call this woman a dancing girl, I state something lower than the Europeans have an idea of respecting that situation. She was born a slave, bred a dancing girl. Her dancing was not any of those noble and majestic movements, which make part of the entertainment of the most wise, of the education of the most virtuous, which improve the manners without corrupting the morals of all civilized people; and of which, among uncivilized people, the professors have their due share of admiration; but these dancers were not decent to be seen, nor fit to be related. I shall pass them by. Your lordships are to suppose the lowest degree of infamy in occupation and situation, when I tell you, that Munny Begum was a slave, and dancing girl.

The history of the Munny Begum is this: "At a village called Balcunda, near Sekindra, there lived a widow, who, from her great poverty, not being able to bring up her daughter Munny, gave her to a slave girl belonging to Summin Ally Cawn, whose name was Bissoo. During the space of five years she lived at Shahjehunabad, and was educated by Bissoo after the manner of a dancing girl. Afterwards the nabob Shamut Jung, upon the marriage of Ikram ul Dowlah, brother to the nabob Surage ul Dowlah, sent for Bissoo Beg's set of dancing girls from Shahjehunabad, of

which Munny Begum was one, and allowed them 10,000 rupees for their expenses, to dance at the wedding. While the ceremony was celebrating, they were kept by the nabob: but some months afterward he dismissed them, and they took up their residence in this city. Meer Mahomed Jaffier Cawn then took them into keeping, and allowed Munny and her set 500 rupees per month; till at length finding, that Munny was pregnant, he took her into his own house. She gave birth to the nabob Nijum ul Dowlah, and in this manner has she remained in the nabob's family ever since."

Now it required a very peculiar mode of selection to take such a woman, so circumstanced (resembling whom there was not just such another) to depose the nabob's own mother from the superiourity of the household, and to substitute this woman. It would have been an abominable abuse, and would have implied corruption in the grossest degree, if Mr. Hastings had stopped there; he not only did this, but he put *her*, this woman, in the very place of Mahomed Reza Khân; he made her guardian, he made her regent, he made her viceroy, he made her the representative of the native government of the country in the eyes of strangers. There was not a trust, not a dignity in the country, which he did not put, during the minority of this unhappy person, her step-son, into the hands of this woman.

Reject, if you please, the strong presumption of corruption in disobeying the order of the company directing him to select a *man* fit to supply the place of Mahomed Reza Khân, to exercise all the great and arduous functions of government, and of justice, as well as the regulations of the nabob's household; and then I will venture to say, that neither your lordships, nor any man living, when he hears of this appointment, does or can hesitate a moment in concluding, that it is the result of corruption, and that you only want to be informed, what the corruption was. Here is such an arrangement as, I believe, never was before heard of—a secluded woman in the place of a man of the world: a fantastic dancing girl in the place of a grave magistrate: a slave in the place of a woman of quality: a common prostitute made to superintend the education of a young prince: and a step-mother, a name of horrour in all countries, made to supersede the natural mother, from whose body the nabob had sprung!

These are circumstances, that leave no doubt of the grossest and most flagrant corruption: but was there no application made to Mr. Hastings upon that occasion? The nabob's uncle, whom Mr. Hastings declares to be a man of no dangerous ambition, no alarming parts, no one quality, that could possibly exclude him from that situation, makes an application to Mr. Hastings for that place, and was by Mr. Hastings rejected. The reason he gives for his rejection is, because he cannot put any man in it without danger to the company, who had ordered him to put a man into it. One would imagine the trust to be placed in him was such as enabled him to overturn the company in a moment. Now the situation, in which the nabob's uncle Zeteram O'Dowlah would have been placed, was this; he would have had no troops, he would have had no treasury, he would have had no collections of revenue, nothing in short, that could have made him dangerous, but he would have been an absolute pensioner and dependent upon the company, though in high office; and the least attempt to disturb the company, instead of increasing, would have been subversive of his own power. If Mr. Hastings should still insist, that there might be danger from the appointment of a man, we shall prove, that he was of opinion, that there could be no danger from any one; that the nabob himself was a mere shadow—a cipher, and was kept there only to soften the English government in the eyes and opinion of the natives. My lords, I will detail these circumstances no further, but will bring some collateral proofs to show, that Mr. Hastings, was at that very time conscious of the wicked and corrupt act he was doing. For, besides this foolish principle of policy, which he gives as a reason for defying the orders of the company, and for insulting the country, that had never before seen a woman in that situation, and *his* declaration to the company, that their government cannot be supported by private justice (a favourite maxim, which he holds upon all occasions) besides these reasons which he gave for his politic injustice, he gives the following; the company had ordered, that £.30,000 should be given to the person appointed. He knew, that the company could never dream of giving this woman £.30,000 a year, and he makes use of that circumstance to justify him in putting her in that place; for, he says, the company, in the distressed state of its affairs, could never mean to give £.30,000 a year for the office, which they order to be filled; and accordingly, upon principles of œconomy, as well as upon principles of prudence, he sees there could be no occasion for giving this salary, and that it

will be saved to the company. But no sooner had he given her the appointment, than that appointment became a ground for giving her that money. The moment he had appointed her, he overturns the very principle, upon which he appointed her, and gives the £30,000 to her, and the officers under her, saving not one shilling to the company by this infamous measure, which he justified only upon the principle of œconomy. The £30,000 was given, the principle of œconomy vanished, a shocking arrangement was made, and Bengal saw a dancing girl administering its justice, presiding over all its remaining power, wealth and influence, exhibiting to the natives of the country their miserable state of degradation, and the miserable dishonour of the English company in Mr. Hastings's abandonment of all his own pretences.

But there is a still stronger presumption; the company ordered, that this person, who was to have the management of the nabob's revenue, and who was to be his guardian, should keep a strict account, which account should be annually transmitted to the presidency, and by the presidency to Europe; and the purpose of it was to keep a controul upon the reduced expenses of the sixteen lacks, which were ordered in the manner I mentioned. Your lordships will naturally imagine, that that controul was kept safe; no, here is the order of the directors, and you will see how Mr. Hastings obeyed it.

"As the disbursements of the sums allotted to the nabob for the maintenance of his household, and family, and the support of his dignity, will pass through the hands of the minister, who shall be selected by you, conformable to our preceding orders, we expect, that you will require such minister to deliver annually to your board a regular and exact account of the application of the several sums paid by the company to the nabob. This you will strictly examine; and we trust, that you will not suffer any part of the nabob's stipend to be appropriated to the minister's own use, or wasted among the unnecessary dependants of the court; but, that the whole amount be applied to the purposes, for which it was assigned by us."

One would have imagined, that after Mr. Hastings had made so suspicious an arrangement (I will not call it by any worse name) he would have removed all suspicion with regard to money; that he would have obeyed the company by constituting the controul, which they had ordered to be placed over a man, even a fit man, and a man worthy of the trust committed to him. But what is his answer, when three years after he is desired to produce this account? his answer is—"I can save the board the trouble of this reference by acquainting them, that no such accounts have ever been transmitted, nor, as I can affirm with most certain knowledge, any orders given for that purpose, either to Goordass, to whose office it did not properly belong, nor to the begum, who had the actual charge and responsibility of those disbursements."

He has given to this woman the charge of all the disbursements of the company. The officer, whom you would imagine would be responsible, was not responsible; but, to this prostitute and dancing girl the whole of the revenue was given. When he was ordered to transmit that account, he not only did not produce that account, but had given no order, that it should be kept; so that no doubt can be left upon your lordships' minds, that the sixteen lacks, which were reserved for the support of the dignity of the government of that country, were employed for the purpose of Mr. Hastings's having a constant bank, from which he could draw every corrupt emolument he should think fit for himself and his associates. Thus your lordships see, that he appointed an improper person to the trust without any controul; and that the very accounts, which were to be the guardians of his purity, and which were to remove suspicion from him, he never so much as directed or ordered. If any one can doubt, that that transaction was in itself corrupt, I can only say, that his mind must be constituted in a manner totally different from that, which prevails in any of the higher or lower branches of judicature in any country in the world. The suppression of an account is a proof of corruption.

When Mr. Hastings committed these acts of violence against Mahomed Reza Khân, when he proceeded to make arrangements in the company's affairs of the same kind with those, in which corruption had been before exercised, he was bound by a particular responsibility, that there should be nothing mysterious in his own conduct; and that at least all the accounts should be well kept. He appointed a person nominally for that situation, namely, the rajah Goordass. Who was he? A person acting, he says, under the influence of rajah Nundcomar, whom he had declared was not fit to be employed or trusted; all the offices were filled by him. But had rajah Goordass, whose character is that of an excellent man, against whom there could lie no reasonable objection on account of his personal character; and whose want of talents was to be

supplied by those of Nundcomar; (and of *his* parts Mr. Hastings spoke as highly as possible) had he, I say, the management? No; but Munny Begum. Did she keep any accounts? No; Mr. Hastings was ordered, and a very disagreeable and harsh order it was, to take away one half of the nabob's allowance, which he had by treaty. I do not charge Mr. Hastings with this reduction; he had nothing to do with that. Sixteen lacks were cut off, and sixteen left; these two sums had been distributed, one for the support of the seraglio, and the dignity of the state; the other for the court establishment, and the household. The sixteen lacks, which was left, therefore, required to be œconomized, and well administered. There was a rigour in the company's order relative to it, which was, that it should take place from an antedated time, that is, a whole year prior to the communication of their order to the nabob. The order was, that the nabob's stipend should be reduced to sixteen lacks a year from the month of January. Mr. Hastings makes this reflection upon it, in order to leave no doubt upon your mind of his integrity in administering that great trust; he says:

"Your order for the reduction of the nabob's stipend was communicated to him in the month of December 1771. He remonstrated against it, and desired it might be again referred to the company. The board entirely acquiesced in his remonstrance, and the subsequent payments of his stipend were paid as before. I might easily have availed myself of this plea. I might have treated it as an act of the past government, with which I had no cause to interfere, and joined in asserting the impossibility of his defraying the vast expense of his court and household without it, which I could have proved by plausible arguments, drawn from the actual amount of nizamut and behla establishments; and both the nabob and begum would have liberally purchased my forbearance. Instead of pursuing this plan, I carried your orders rigidly and literally into execution. I undertook myself the laborious and reproachful task of limiting his charges, from an excess of his former stipend, to the sum of his reduced allowance."

He says, in another place,

"The stoppage of the king's tribute was an act of mine.† * * * * for the remainder."

My lords, I believe it is a singular thing, and what your lordships have been very little used to, to see a man in the situation of Mr. Hastings, or in any situation like it, so ready in knowing all the resources, by which sinister emolument may be made, and concealed, and which, under pretences of public good, may be transferred into the pocket of him, who uses those pretences. He is resolved, if he is innocent, that his innocence shall not proceed from ignorance. He well knows the ways of falsifying the company's accounts; he well knows the necessities of the natives, and he knows, that by paying a part of their dues, they will be ready to give an acquittance of the whole. These are parts of Mr. Hastings's knowledge, of which your lordships will see he also well knows how to avail himself.

But, you would expect, when he reduced the allowance to sixteen lacks, and took credit to himself as if he had done the thing, which he professed, and had argued from his rigour and cruelty his strict and literal obedience to the company, that he had in reality done it. The very reverse; for it will be in proof, that, after he had pretended to reduce the company's allowance, he continued it a twelve-month from the day, in which he said he had entirely executed it, to the amount of £.90,000, and entered a false account of the suppression in the company's accounts; and when he has taken a credit, as under pretence of reducing that allowance, he paid £.90,000 more than he ought. Can you then have a doubt, after all these false pretences, after all this fraud, fabrication and suppression, which he made use of, that that £.90,000, of which he kept no account, and transmitted no account, was money given to himself for his own private use and advantage?

This is all, that I think necessary to state to your lordships upon this monstrous part of the arrangement; and therefore, from his rigorous obedience in cases of cruelty, and where controul was directed, from his total disobedience, and from his choice of persons, from his suppression of the accounts, that ought to have been produced; and falsifying the accounts, that were kept, there arises a strong inference of corruption. When your lordships see all this in proof, your lordships will justify me in saying, that there never was (taking every part of the arrangement) such a direct open violation of any trust. I shall say no more with regard to the appointment of Munny Begum.

My lords, here ended the first scene, and here ends that body of presumption arising from the transaction, and inherent in it. My lords, the next scene, that I am to bring before you, is the positive proof of corruption in this transaction, in which I am sure, you

† Document not found.

already see, that corruption must exist. The charge was brought by a person in the highest trust and confidence with Mr. Hastings, a person employed in the management of the whole transaction; a person, to whom the management, subordinate to Munny Begum, of all the pecuniary transactions, and all the arrangements made upon that occasion, was intrusted.

On the 11th day of March 1775, Nundcomar gives to Mr. Francis, a member of the council, a charge against Mr. Hastings, consisting of two parts. The first of these charges was a vast number of corrupt dealings, with respect to which he was the informer, not the witness, but to which he indicated the modes of inquiry and they are corrupt dealings, as Mr. Hastings himself states them, amounting to millions of rupees; and in transactions, every one of which implies in it the strongest degree of corruption.

The next part was of those, to which he was not only an informer but a witness, in having been the person, who himself transmitted the money to Mr. Hastings, and the agents of Mr. Hastings; and accordingly upon this part, which is the only part we charge, his evidence is clear and full, that he gave the money to Mr. Hastings; he and the begum (for I put them together). He states, that Mr. Hastings received for the appointment of Munny Begum to the rajahship two lacks of rupees, or about £.22,000: and that he received in another gross sum one lack and an half of rupees, in all making three lacks and an half, or about £.36,000. This charge was signed by the man, and accompanied with the account.

Mr. Hastings, on that day, made no reflection or observation whatever upon this charge, except that he attempted to excite some suspicion, that Mr. Francis, who had produced it, was concerned in the charge, and was the principal mover in it. He asks Mr. Francis that day this question:

"The governour-general observes, as Mr. Francis has been pleased to inform the board, that he was unacquainted with the contents of the letter sent in to the board by Nundcomar, that he thinks himself justified in carrying his curiosity further than he should have permitted himself without such a previous intimation; and therefore begs leave to ask Mr. Francis, whether he was, before this, acquainted with Nundcomar's intention of bringing such charges against him before the board?

"Mr. Francis.—As a member of this council, I do not deem myself obliged to answer any question of mere curiosity. I am willing, however, to inform the governour-general, that though I was totally unacquainted with the contents of the paper I have now delivered in to the board, till I heard it read, I did apprehend in general, that it contained some charge against him. It was this apprehension, that made me so particularly cautious in the manner of receiving the rajah's letter. I was not acquainted with rajah Nundcomar's intention of bringing in such charges as are mentioned in the letter.

"Warren Hastings.—J. Clavering.—Geo. Monson.—P. Francis."

Now what the duty of Mr. Hastings and the council was upon receiving such information, I shall beg leave to state to your lordships from the company's orders: but, before I read them, I must observe, that in pursuance of an act of parliament, which was supposed to be made upon account of the neglect of the company, as well as the neglects of their servants, and for which general neglects responsibility was fixed upon the company for the future, while for the present their authority was suspended, and a parliamentary commission sent out to regulate their affairs, the company did, upon that occasion, send out a general code and body of instructions to be observed by their servants; in the 35th paragraph of which it is said,

"We direct, that you immediately cause the strictest inquiry to be made into all oppressions, which may have been committed either against the natives, or Europeans; and into all abuses, that may have prevailed in the collection of the revenues, or any part of the civil government of the presidency; and that you communicate to us all information, which you may be able to learn relative thereto, or to any dissipation or embezzlement of the company's money."

Your lordships see here, that there is a direct duty fixed upon them to forward, to promote, to set on foot, without exception of any persons whatever, an inquiry into all manner of corruption, peculation, and oppression. Therefore this charge of Nundcomar's was a case exactly within the company's orders; such a change was not sought out, but was actually laid before them; but if it had not been actually laid before them; if they had any reason to suspect, that such corruptions existed, they were bound by this order to make an active inquiry into them. Upon that day (11th March 1775) nothing further passed; and, on the part of Mr. Hastings, that charge, as far as we find, might have stood upon the

records for ever, without his making the smallest observation upon it, or taking any one step to clear his own character. But Nundcomar was not so inattentive to his duties as an accuser, as Mr. Hastings was to his duties as an inquirer; for without a moment's delay, upon the first board day, two days after, Nundcomar came and delivered the following letter:

"I had the honour to lay before you, in a letter of the 11th instant, an abstracted but true account of the honourable governour in the course of his administration. What is there written, I mean not the least to alter; far from it. I have the strongest written vouchers to produce in support of what I have advanced: and I wish and entreat, for my honour's sake, that you will suffer me to appear before you, to establish the fact by an additional incontestable evidence."

My lords, I will venture to say, if ever there was an accuser, that appeared well and with weight before any court, it was this man. He does not shrink from his charge; he offered to meet the person he charged, face to face, and to make good his charge by his own evidence, and further evidence, that he should produce. Your lordships have also seen the conduct of Mr. Hastings on the first day; you have seen his acquiescence under it; you have seen the suspicion he endeavoured to raise. Now, before I proceed to what Mr. Hastings thought of it, I must remark upon this accusation, that it is a specific accusation, coming from a person knowing the very transaction, and known to be concerned in it; that it was an accusation in writing, that it was an accusation with a signature, that it was an accusation with a person to make it good, that it was made before a competent authority, and made before an authority bound to inquire into such accusation. When he comes to produce his evidence, he tells you, first, the sums of money given, the species, in which they were given, the very bags, in which they were put, the exchange, that was made by reducing them to the standard money of the country; he names all the persons, through whose hands the whole transaction went, eight in number, besides himself, Munny Begum, and Goordass, being eleven, all referred to in this transaction. I do believe, that, since the beginning of the world, there never was an accusation, which was more deserving of inquiry, because there never was an accusation, which put a false accuser in a worse situation, and that put an honest defendant in a better; for there was every means of collation—every means of comparison—every means of cross examining—every means of controul. There was every way of sifting evidence, in which evidence could be sifted. Eleven witnesses to the transaction are referred to; all the particulars of the payment, every circumstance, that could give the person accused the advantage of showing the falsehood of the accusation, were specified. General accusations may be treated as calumnies, but particular accusations, like these, afford the defendant, if innocent, every possible means for making his defence; therefore the very making no defence at all would prove, beyond all doubt, a consciousness of guilt.

The next thing for your lordships' consideration is the conduct of Mr. Hastings upon this occasion. You would imagine, that he would have treated the accusation with a cold and manly disdain: that he would have challenged and defied inquiry, and desired to see his accuser face to face. This is what any man would do in such a situation. I can conceive very well, that a man composed, firm, and collected in himself, conscious of not only integrity, but known integrity: conscious of a whole life beyond the reach of suspicion:—that a man, placed in such a situation, might oppose general character to general accusation, and stand collected in himself, poised on his own base, and defying all the calumnies in the world. But as it shows a great and is a proof of a virtuous mind to despise calumny, it is the proof of a guilty mind to despise a specific accusation, when made before a competent authority, and with competent means to prove it. As Mr. Hastings's conduct was what no man living expected, I will venture to say, that no expression can do it justice but his own. Upon reading the letter, and a motion being made, that rajah Nundcomar be brought before the board to prove the charge against the governour-general:

The governour general enters the following minute;—

"Before the question is put, I declare, that I will not suffer Nundcomar to appear before the board as my accuser. I know what belongs to the dignity and character of the first member of this administration. I will not sit at this board in the character of a criminal, nor do I acknowledge the members of this board to be my judges. I am reduced on this occasion to make the declaration, that I look upon General Clavering, Colonel Monson, and Mr. Francis, as my accusers. I cannot prove this in the direct letter of the law, but

in my conscience I regard them as such, and I will give my reasons for it. On their arrival at this place, and on the first formation of the council, they thought proper to take immediate and decisive measures, in contradiction, and for the repeal of those, which were formed by me in conjunction with the last administration. I appealed to the court of directors from their acts. Many subsequent letters have been transmitted both by them and me to the court of directors. By me, in protestation against their conduct; by them in justification of it. Quitting this ground, they since appear to me to have chosen other modes of attack, apparently calculated to divert my attention, and to withdraw that of the public from the subject of our first differences, which regarded only the measures, that were necessary for the good of the service; to attacks directly and personally levelled at me for matters, which tend to draw a personal and popular odium upon me: and fit instruments they have found for their purpose, Mr. Joseph Fowke, Mahrajah Nundcomar, Roopnarain Chowdry, and the ranny of Burdwan.

"It appears incontestably upon the records that the charges, preferred by the ranny against me, proceeded from the office of Mr. Fowke; all the papers, transmitted by her, came in their original form written in the English language, some with Persian papers, of which they were supposed to be translations, but all strongly marked with the character and idiom of the English language. I applied on Saturday last for Persian originals of some of the papers, sent by her, and I was refused: I am justified in declaring my firm belief, that no such originals exist.

"With respect to Nundcomar's accusations, they were delivered by the hands of Mr. Francis, who has declared, that he was called upon by rajah Nundcomar, as a duty belonging to his office as a councillour of this State, to lay the packet, which contained them, before the board. That he conceived, that he could not, consistent with his duty, refuse such a letter at the instance of a person of the rajah's rank, and did accordingly receive it, and laid it before the board; declaring at the same time, that he was unacquainted with the contents of it. I believe, that the court of directors, and those, to whom these proceedings shall be made known, will think differently of this action of Mr. Francis: that Nundcomar was guilty of great insolence and disrespect in the demand, which he made of Mr. Francis; and that it was not a duty belonging to the office of a councillour of this State to make himself the carrier of a letter, which would have been much more properly committed to the hands of a peon or hircarra, or delivered by the writer of it to the secretary himself.

"Mr. Francis has acknowledged, that he apprehended in general, that it contained some charge against me. If the charge was false it was a libel; it might have been false for any thing that Mr. Francis could know to the contrary, since he was unacquainted with the contents of it. In this instance therefore he incurred the hazard of presenting a libel to the board; this was not a duty belonging to his office as a councillour of this State. I must further inform the board, that I have been long since acquainted with Nundcomar's intentions of making this attack upon me. Happily Nundcomar, among whose talents for intrigue that of secrecy is not the first, has been ever too ready to make the first publication of his own intentions. I was shown a paper containing many accusations against me, which I was told was carried by Nundcomar to Colonel Monson, and that he himself was employed for some hours in private with Colonel Monson, explaining the nature of those charges.

"I mention only what I was told; but as the rest of the report, which was made to me, corresponds exactly with what has happened since, I hope I shall stand acquitted to my superiours and to the world in having given so much credit to it, as to bring the circumstance upon record. I cannot recollect the precise time, in which this is said to have happened, but I believe it was either before or at the time of the dispatch of the Bute and Pacific. The charge has since undergone some alteration; but of the copy of the paper, which was delievered to me, containing the original charge, I caused a translation to be made: when suspecting the renewal of the subject in this day's consultation, I brought it with me, and I desire it may be recorded, that when our superiours, or the world, if the world is to be made the judge of my conduct, shall be possessed of these materials, they may, by comparing the supposed original and amended list of accusations preferred against me by Nundcomar, judge how far I am justified in the credit, which I give to the reports above mentioned. I do not mean to infer from what I have said, that it makes any alteration in the nature of the charges, whether they were delivered immediately from my ostensible accusers, or whether they came to the board through the channel of patronage; but it is

sufficient to authorize the conviction, which I feel in my own mind, that those gentlemen are parties in the accusations, of which they assert the right of being the judges. From the first commencement of this administration every means have been tried both to deprive me of the legal authority, with which I have been trusted, and to proclaim the annihilation of it to the world; but no instance has yet appeared of this in so extraordinary a degree as in the question now before the board. The chief of the administration, your superiour, gentlemen, appointed by the legislature itself, shall I sit at this board to be arraigned in the presence of a wretch, whom you all know to be one of the basest of mankind? I believe I need not mention his name; but it is Nundcomar. Shall I sit here to hear men collected from the dregs of the people give evidence, at his dictating, against my character and conduct? I will not; you may if you please form yourselves into a committee for the investigation of these matters in any manner, which you may think proper; but I will repeat, that I will not meet Nundcomar at the board, nor suffer Nundcomar to be examined at the board; nor have you a right to it, nor can it answer any other purpose than that of vilifying and insulting me to insist upon it.

"I am sorry to have found it necessary to deliver my sentiments on a subject of so important a nature in an unpremeditated minute drawn from me at the board, which I should have wished to have had leisure and retirement to have enabled me to express myself with that degree of caution and exactness, which the subject requires. I have said nothing but what I believe, and am morally certain, I shall stand justified for in the eyes of my superiours and the eyes of the world; but I reserve to myself the liberty of adding my further sentiments in such a manner and form as I shall hereafter judge necessary."

My lords, you see here the picture of Nundcomar drawn by Mr. Hastings himself—you see the hurry, the passion, the precipitation, the confusion, into which Mr. Hastings is thrown by the perplexity of detected guilt—you see, my lords, that instead of defending himself, he rails at his accuser in the most indecent language, calling him a wretch, whom they all knew to be the basest of mankind—that he rails at the council by attributing their conduct to the worst of motives; that he rails at every body, and declares the accusation to be a libel: in short you see plainly, that the man's head is turned. You see there is not a word he says upon this occasion, which has common sense in it; you see one great leading principle in it, that he does not once attempt to deny the charge; he attempts to vilify the witness, he attempts to vilify those he supposes to be his accusers, he attempts to vilify the council; he lays upon the accusation, he mixes it with other accusations, which had nothing to do with it, and out of the whole he collects a resolution, to do what? to meet his adversary and defy him? No, that he will not suffer him to appear before him: he says, "I will not sit at this board in the character of a criminal, nor do I acknowledge the board to be my judges."

He was not called upon to acknowledge them to be his judges; both he and they were called upon to inquire into all corruptions without exception; it was his duty not merely to traverse and oppose them, while inquiring into acts of corruption, but he was bound to take an active part in it; that if they had a mind to let such a thing sleep upon their records, it was his duty to have brought forward the inquiry. They were not his judges, they were not his accusers; they were his fellow labourers in the inquiry ordered by the court of directors, their masters, and by which inquiry he might be purged of that corruption, with which he stood charged.

He says, Nundcomar is a wretch, whom you all know to be the basest of mankind. I believe they did not know the man to be a wretch or the basest of mankind; but if he was a wretch, and if he was the basest of mankind, if he was guilty of all the crimes, with which we charge Mr. Hastings (not one of which was ever proved against him,) if any of your lordships were to have the misfortune to be before this tribunal, before any inquest of the House of Commons, or any other inquest of this nation, would you not say, that it was the greatest possible advantage to you, that the man, who accused you, was a miscreant, the vilest and basest of mankind, by the confession of all the world? Do mankind really then think, that to be accused by men of honour, of weight, of character, upon probable charges, is an advantage to them, and that to be accused by the basest of mankind is a disadvantage? No; give me, if ever I am to have accusers, miscreants, as he calls him—wretches, the basest and vilest of mankind. The board (says he) are my accusers; if they were, it was their duty; but they were not his accusers, but were inquiring into matters, which it was equally his duty to inquire into. He would not suffer Nundcomar to be produced, he would not suffer Nundcomar to be examined

he rather suffered such an accusation to stand against his name and character, than permit it to be inquired into. Do I want any other presumption of his guilt upon such an occasion, than such a conduct as this? This man, whom he calls a wretch, the basest and vilest of mankind, was undoubtedly by himself, in the records of the company, declared to be one of the first men of that country, every thing, that a subject could be, a person illustrious for his birth, sacred with regard to his cast, opulent in fortune, eminent in situation, who had filled the very first offices in that country; and that he was, added to all this, a man of most acknowledged talents, and of such a superiourity as made the whole people of Bengal appear to be an inferiour race of beings compared to him: a man, whose outward appearance and demeanour used to cause reverence and awe, and who at that time, was near seventy years of age, which, without any other title, generally demands respect from mankind. And yet this man he calls the basest of mankind, a name, which no man is entitled to call another till he has proved something to justify him in so doing; and notwithstanding his opulence, his high rank, station and birth, he despises him and will not suffer him to be heard as an accuser before him. I will venture to say, that Mr. Hastings in so doing, whether elevated by philosophy, or inflated by pride, is not like the rest of mankind. We do know, that in all accusations a great part of their weight and authority comes from the character, the situation, the name, the description, the office, the dignity of the persons, who bring them—mankind are so made—we cannot resist this prejudice; and it has weight, and ever will have *primâ facie* weight, in all the tribunals in the world. If, therefore, rajah Nundcomar was a man, who (it is not degrading to your lordships to say) was equal in rank, according to the idea of his country, to any peer in this House, as sacred as a bishop, of as much gravity and authority as a judge, and who was prime minister in the country, in which he lived; with what face can Mr. Hastings call this man a wretch, and say, that he will not suffer him to be brought before him. If indeed, joined with such circumstances, the accuser be a person of bad morals, then I admit those bad morals take away from their weight; but, for a proof of that, you must have some other grounds than the charges and the railing of the culprit against him.

I might say, that this passion is a proof of his guilt, and there is an action, which is more odious than the crimes he attempts to cover, *for he has murdered this man by the hands of Sir Elijah Impey*; and if his counsel should be unwise enough to endeavour to detract from the credit of this man by the pretended punishment, to which he was brought, we will open that dreadful scene to your lordships; and you will see, that it does not detract from his credit, but brings an eternal stain and dishonour upon the justice of Great Britain: I say nothing further of it. As he stood there, as he gave that evidence that day, the evidence was to be received; it stands good, and is a record against Mr. Hastings, with this addition, that he would not suffer it to be examined. He railed at his colleagues. He says, if the charge was false they were guilty of a libel. No. It might have been the effect of conspiracy, it might be punished in another way; but if it was false, it was no libel. And all this is done to discountenance inquiry, to bring odium upon his colleagues for doing their duty, and to prevent that inquiry, which could alone clear his character. Mr. Hastings had himself forgotten the character, which he had given of Nundcomar; but he says, that his colleagues were perfectly well acquainted with him, and knew, that he was a wretch, the basest of mankind.

But before I read to you the character, which Mr. Hastings gave of him when he recommended him to the presidency (to succeed Mahomed Reza Khân,) I am to let your lordships understand fully the purpose, for which Mr. Hastings gave it. Upon that occasion all the council, whom he stated to lie under suspicion of being bought by Mahomed Reza Khân, all those persons with one voice cried out against Nundcomar; and as Mr. Hastings was known to be of the faction the most opposite to Nundcomar, they charged him with direct inconsistency in raising Nundcomar to that exalted trust; a charge, which Mr. Hastings could not repel any other way than by defending Nundcomar. The weight of their objections chiefly lay to Nundcomar's political character; his moral character was not discussed in that proceeding. Mr. Hastings says,

"The president does not take upon him to vindicate the moral character of Nundcomar; his sentiments of this man's former political conduct are not unknown to the court of directors, who, he is persuaded, will be more inclined to attribute his present countenance of him to motives of zeal and fidelity to the service, in repugnance perhaps to his own inclinations, than to any predilection in his favour. He is very well acquainted with most

of the facts alluded to in the minute of the majority, having been a principal instrument in detecting them; nevertheless he thinks it but justice to make a distinction between the violation of a trust and an offence committed against our government by a man, who owed it no allegiance, nor was indebted to it for protection, but, on the contrary, was the minister and actual servant of a master, whose interest naturally suggested that kind of policy, which sought by foreign aids, and the diminution of the power of the company, to raise his own consequence, and to re-establish his authority. He has never been charged with any instance of infidelity to the nabob Meer Jaffier, the constant tenour of whose politics, from his first accession to the nizamut till his death, corresponded in all points so exactly with the artifices, which were detected in his minister, that they may be as fairly ascribed to the one as to the other; their immediate object was beyond question the aggrandizement of the former, though the latter had ultimately an equal interest in their success. The opinion, which the nabob himself entertained of the services and of the fidelity of Nundcomar, evidently appeared in the distinguished marks, which he continued to show him, of his favour and confidence to the latest hour of his life.

"His conduct in the succeeding administration appears not only to have been dictated by the same principles, but if we may be allowed to speak favourably of any measures, which opposed the views of our own government, and aimed at the support of an adverse interest, surely it was not only not culpable, but even praiseworthy. He endeavoured, as appears by the abstracts before us, to give consequence to his master, and to pave the way to his independence, by obtaining a firmaun from the king for his appointment to the soubahship; and he opposed the promotion of Mahomed Reza Khân, because he looked upon it as a supersession of the rights and authority of the nabob. He is now an absolute dependant and subject of the company, on whose favour he must rest all his hopes of future advancement."

The character here given of him is that of an excellent patriot, a character, which all your lordships in the several situations, which you enjoy, or to which you may be called, will envy; the character of a servant, who stuck to his master against all foreign encroachments; who stuck to him to the last hour of his life, and had the dying testimony of his master to his services.

Could Sir John Clavering, could Colonel Monson, could Mr. Francis know, that this man of whom Mr. Hastings had given that exalted character upon the records of the company, was the basest and vilest of mankind? No, they ought to have esteemed him the contrary; they knew him to be a man of rank, they knew him to be a man perhaps of the first capacity in the world; and they knew, that Mr. Hastings had given this honourable testimony of him on the records of the company but a very little time before; and there was no reason why they should think or know, as he expresses it, that he was the basest and vilest of mankind. From the account therefore of Mr. Hastings himself, he was a person competent to accuse, a witness fit to be heard, and that is all I contend for. Mr. Hastings would not hear him, he would not suffer the charge he had produced to be examined into.

It has been shown to your lordships, that Mr. Hastings employed Nundcomar to inquire into the conduct, and to be the principal manager of a prosecution against Mahomed Reza Khân. Will you suffer this man to qualify and disqualify witnesses and prosecutors agreeably to the purposes, which his own vengeance and corruption may dictate in one case, and which the defence of those corruptions may dictate in another. Was Nundcomar a person fit to be employed in the greatest and most sacred trusts in the country, and yet not fit to be a witness to the sums of money, which he paid Mr. Hastings for those trusts? Was Nundcomar a fit witness to be employed, and a fit person to be used in the prosecution of Mahomed Reza Khân, and yet not fit to be employed against Mr. Hastings, who himself had employed him in the very prosecution of Mahomed Reza Khân?

If Nundcomar was an enemy to Mr. Hastings, he was an enemy to Mahomed Reza Khân; and Mr. Hastings employed him, avowedly and professedly on the records of the company, on account of the very qualification of that enmity. Was he a wretch, the basest of mankind, when opposed to Mr. Hastings? Was he not as much a wretch, and as much the basest of mankind, when Mr. Hastings employed him in the prosecution of the first magistrate, and Mahomedan of the first descent in Asia? Mr. Hastings shall not qualify and disqualify men at his pleasure: he must accept them such as they are; and it is a presumption of his guilt accompanying the charge (which I never will separate from it) that he would not suffer the man to be produced, who made the accusation. And I therefore contend, that as the accusation was so made

so witnessed, so detailed, so specific, so entered upon record; and so entered upon record in consequence of the inquiries ordered by the company; his refusal and rejection of inquiry into it is a presumption of his guilt.

He is full of his idea of dignity. It is right for every man to preserve his dignity. There is a dignity of station, which a man has in trust to preserve; there is a dignity of personal character, which every man by being made man is bound to preserve. But you see, Mr. Hastings's idea of dignity has no connection with integrity; it has no connection with honest fame; it has no connection with the reputation, which he is bound to preserve. What, my lords, did he owe nothing to the company, that had appointed him? Did he owe nothing to the legislature? Did he owe nothing to your lordships, and to the House of Commons, who had appointed him? Did he owe nothing to himself, to the country, that bore him? Did he owe nothing to the world, as to its opinion, to which every public man owes a reputation? What an example was here held out to the company's servants!

Mr. Hastings says, this may come into a court of justice: it will come into a court of justice; I reserve my defence on the occasion till it comes into a court of justice, and here I make no opposition to it. To this I answer, that the company did not order him so to reserve himself; but ordered him to be an inquirer into those things. Is it a lesson to be taught to the inferiour servants of the company, that provided they can escape out of a court of justice by the back doors and sally-ports of the law, by artifice of pleading, by those strict and rigorous rules of evidence, which have been established for the protection of innocence, but which by them might be turned to the protection and support of guilt; and that such an escape is enough for them? That an Old Bailey acquittal is enough to establish a fitness for trust; and if a man shall go acquitted out of such a court, because the judges are bound to acquit him against the conviction of their own opinion, when every man in the market-place knows, that he is guilty—that he is fit for a trust? Is it a lesson to be held out to servants of the company, that upon the first inquiry, which is made into corruption, and that in the highest trust, by the persons authorized to inquire into it, he uses all the powers of that trust to quash it; vilifying his colleagues, vilifying his accuser, abusing every body, but never denying the charge? His associates and colleagues, astonished at his conduct, so wholly unlike every thing, that had ever appeared of innocence, request him to consider a little better. They declare, they are not his accusers; they tell him, they are not his judges; that they under the orders of the company are making an inquiry, which he ought to make: he declares he will not make it. Being thus driven to the wall, he says, Why do you not form yourselves into a committee? I won't suffer these proceedings to go on as long as I am present. Mr. Hastings plainly had in view, that, if the proceedings had been before a committee, there would have been a doubt of their authenticity, as not being before a regular board. And he contended, that there could be no regular board without his own presence in it: a poor miserable scheme for eluding this inquiry; partly by saying, that it was carried on when he was not present, and partly by denying the authority of this board.

I will have nothing to do with the great question, that arose upon the governour-general's resolution to dissolve a board, whether the board have a right to sit afterwards; it is enough, that Mr. Hastings would not suffer them as a council to examine into what as a council they were bound to examine into. He absolutely declared the council dissolved, when they did not accept his committee; for which they had many good reasons, as I shall show in reply, if necessary, and which he could have no one good reason for proposing—he then declares the council dissolved. The council, who did not think Mr. Hastings had a power to dissolve them, while proceeding in the discharge of their duty, went on as a council: they called in Nundcomar to support his charge; Mr. Hastings withdrew. Nundcomar was asked, what he had to say further in support of his own evidence. Upon which he produces a letter from Munny Begum, the dancing girl, that I have spoken of, in which she gives him directions and instructions relative to his conduct in every part of those bribes; by which it appears, that the corrupt agreement for her office was made with Mr. Hastings through Nundcomar, before he had quitted Calcutta: it points out the execution of it, and the manner, in which every part of the sum was paid; one lack by herself in Calcutta; one lack, which she ordered Nundcomar to borrow, and which he did borrow; and a lack and an half, which were given to him, Mr. Hastings, besides this purchase money, under colour of an entertainment. This letter was produced, translated, examined, criticised, proved to be sealed with the seal of the begum, acknowledged to have no marks but those of authenticity upon it; and, as such, was entered upon

the company's records, confirming and supporting the evidence of Nundcomar, part by part, and circumstance by circumstance. And I am to remark, that since this document, so delivered in, has never been litigated or controverted in the truth of it, from that day to this, by Mr. Hastings; so, if there was no more testimony, here is enough upon this business. Your lordships will remark, that this charge consisted of two parts; two lacks, that were given explicitly for the corrupt purchase of the office; and one lack and an half given, in reality, for the same purpose, but under the colour of what is called an entertainment.

Now in the course of these proceedings it was thought necessary, that Mr. Hastings's banyan, Cantoo Baboo (a name your lordships will be well acquainted with, and who was the minister in this and all the other transactions of Mr. Hastings) should be called before the board to explain some circumstances in the proceedings. Mr. Hastings ordered his banyan, a native, not to attend the sovereign board, appointed by parliament for the government of that country, and directed to inquire into transactions of this nature. He thus taught the natives not only to disobey the orders of the court of directors, enforced by an act of parliament; but he taught his own servant to disobey, and ordered him not to appear before the board. Quarrels, duels, and other mischiefs arose. In short, Mr. Hastings raised every power of heaven and of hell upon this subject, but in vain: the inquiry went on.

Mr. Hastings does not meet Nundcomar, he was afraid of him; but he was not negligent of his own defence, for he flies to the supreme court of justice; he there prosecuted an inquiry against Nundcomar for a conspiracy. Failing in that, he made other attempts, and disabled Nundcomar from appearing before the board by having him imprisoned, and thus entirely crippled that part of the prosecution against him. But as guilt is never able thoroughly to escape, it did so happen, that the council finding monstrous deficiencies in the begum's affairs; finding the nabob's allowance totally squandered, that the most sacred pensions were left unpaid, that nothing but disorder and confusion reigned in all his affairs, that the nabob's education was neglected, that he could scarcely read or write, that there was scarcely any mark of a man left in him, except those, which nature had at first imprinted;—I say, all these abuses being produced in a body before them, they thought it necessary to send up to inquire into them. And a considerable deficiency or embezzlement appearing in the Munny Begum's account of the young nabob's stipend, she voluntarily declared, by a writing under her seal, that she had given £.15,000 to Mr. Hastings for an entertainment.

Mr. Hastings finding, that the charge must come fully against him contrived a plan, (which your lordships will see the effects of presently,) and this was to confound this lack and an half or £.15,000 with the two lacks given directly and specifically as a bribe; intending to avail himself of this finesse whenever any payment was to be proved of the two lacks, which he knew would be proved against him, and which he never did deny: and accordingly your lordships will find some confusion in the proofs of the payment of those sums. The receipt of two lacks is proved by Nundcomar, proved with all the means of detection, which I have stated; the receipt of the lack and an half is proved by Munny Begum's letter, the authenticity of which was established, and never denied by Mr. Hastings. In addition to these proofs, rajah Goordass, who had the management of the nabob's treasury, verbally gave an account perfectly corresponding with that of Nundcomar, and the Munny Begum's letter; and he afterwards gave in writing an attestation, which in every point agrees correctly with the others. So that there are three witnesses upon this business. And he shall not disqualify rajah Goordass, because whatever character he thought fit to give Nundcomar, he has given the best of characters to rajah Goordass, who was employed by Mr. Hastings in occupations of trust; and therefore any objections to his competency cannot exist. Having got thus far, the only thing, that remained, was to examine the records of the public offices and see whether any trace of these transactions was to be found there. These offices had been thrown into confusion in the manner you will hear; but, upon strict inquiry, there was a *showaster* or office paper produced, from which it appears, that the officer of the treasury, having brought to the nabob an account of one lack and an half, which he said had been given to Mr. Hastings, desired to know from him, under what head of expense it should be entered; and that he, the nabob, desired him to put it under the head of expenses for entertaining Mr. Hastings. If there had been a head of entertainment established as a regular affair, the officer would never have gone to the nabob and asked under what name to enter it; but he found an irregular

affair, and he did not know what head to put it under. And from the whole of the proceedings it appears, that three lacks and an half were paid; two lacks by way of bribe, one lack and an half under the colour of an entertainment. Mr. Hastings endeavours to invalidate the first obliquely, not directly, for he never directly denied it: and he partly admits the second, in hopes, that all the proof of payment of the first charge should be merged and confounded in the second. And therefore your lordships will see from the beginning of that business till it came into the hands of Mr. Smith, his agent, then appearing in the name and character of agent and solicitor to the company, that this was done to give some appearance and colour to it by a false representation, as your lordships will see, of every part of the transactions.

The proof then of the two lacks rests upon the evidence of Nundcomar, the letter of Munny Begum, and the evidence of rajah Goordass. The evidence of the lack and an half, by way of entertainment, was at first the same; and afterwards begins a series of proofs, to which Mr. Hastings has himself helped us. For, in the first place, he produces this office paper in support of his attempt to establish the confusion between the payment of the two lacks, and of the lack and an half. He did not himself deny, that he received a lack and an half, because with respect to that lack and an half he had founded some principle of justification. Accordingly this office paper asserts and proves this lack and an half to have been given, in addition to the other proofs. Then Munny Begum herself is inquired of. There is a commission appointed to go up to her residence; and the fact is proved to the satisfaction of Mr. Goring, the commissioner. The begum had put a paper of accounts, through her son, into his hands, which shall be given at your lordships' bar; in which she expressly said, that she gave Mr. Hastings a lack and an half for entertainment. But Mr. Hastings objects to Mr. Goring's evidence upon this occasion. He wanted to supersede Mr. Goring in the inquiry; and he accordingly appoints, with the consent of the council, two creatures of his own to go and assist in that inquiry. The question, which he directs these commissioners to put to Munny Begum, is this:—"Was the sum of money, charged by you to be given to Mr. Hastings, given under an idea of entertainment, customary, or upon what other ground, or for what other reason?" He also desires the following questions may be proposed to the begum:—"Was any application made to you for the account, which you have delivered, of three lacks and an half of rupees, said to have been paid to the governour and Mr. Middleton; or did you deliver the account of your own free will, and unsolicited?"

My lords, you see, that with regard to the whole three lacks and an half of rupees the the begum had given an account, which tended to confirm the payment of them; but Mr. Hastings wanted to invalidate that account by supposing she gave it under restraint. The second question is—"In what manner was the application made to you, and by whom?" But the principal question is this, "On what account was the one lack and an half given to the governour-general, which you have laid to his account? Was it in consequence of any requisition from him, or of any previous agreement, or of any established usage?" When a man asks concerning a sum of money, charged to be given to him by another person, on what account it was given, he does indirectly admit, that that money actually was paid, and wants to derive a justification from the mode of the payment of it; and accordingly that inference was drawn from the question so sent up, and it served as an instruction to Munny Begum; and her answer was, that it was given to him, as an antient usage and custom, for an entertainment. So that the fact of the gift of the money is ascertained by the question put by Mr. Hastings to her, and her answer. And thus at last comes his accomplice in this business, and gives the fullest testimony to the lack and an half.

I must beg leave, before I go further, to state the circumstances of the several witnesses examined upon this business. They were of two kinds: voluntary witnesses; and accomplices, forced by inquiry and examination to discover their own guilt. Of the first kind were Nundcomar and rajah Goordass; these were the only two, that can be said to be voluntary in the business, and who gave their information without much fear, though the last unwillingly, and with a full sense of the danger of doing it.

The other was the evidence of his accomplice, Munny Begum, wrung from her by the force of truth, in which she confessed, that she gave the lack and an half, and justifies it upon the ground of its being a customary entertainment. Besides this, there is the evidence of Chittesdar, who was one of Mr. Hastings's instruments, and one of the begum's servants. He being prepared to confound the two lacks with the one lack and an half, says, upon his

examination, that a lack and an half was given; but, upon examining into the particulars of it, he proves, that the sum he gave was two lacks, and not a lack and an half; for he says, that there was a dispute about the other half lack. Nundcomar demanded interest, which the begum was unwilling to allow, and consequently that half lack remained unpaid. Now this half lack can be no part of the lack and an half, which is admitted on all hands, and proved by the whole body of concurrent testimony to have been given to Mr. Hastings in one lumping sum. When Chittendur endeavours to confound it with the lack and an half, he clearly establishes the fact, that it was a parcel of the two lacks; and thus bears evidence, in attempting to prevaricate in favour of Mr. Hastings, that one lack and an half was paid, which Mr. Hastings is willing to allow; but when he enters into the particulars of it, he proves by the subdivision of the payment, and by the nonpayment of part of it, that it accords with the two lacks, and not with the lack and an half.

There are other circumstances in these accounts, highly auxiliary to this evidence. The lack and an half was not only attested by rajah Goordass, by the begum, by Chittendur, by the begum again upon Mr. Hastings's own question; indirectly admitted by Mr. Hastings, proved by the orders for it to be written off to expense (such a body of proof as perhaps never existed;) but there is one proof still remaining, namely a paper, which was produced before the committee, and which we shall produce to your lordships. It is an authentic paper delivered in favour of Mr. Hastings by Major Scott, who acted at that time as Mr. Hastings's agent to a committee of the House of Commons, and authenticated to come from Munny Begum herself. All this body of evidence we mean to produce; and we shall prove, first, that he received the two lacks;—and secondly, that he received one lack and an half under the name of entertainment. With regard to the lack and an half, Mr. Hastings is so far from controverting it, even indirectly, that he is obliged to establish it by testimonies produced by himself, in order to sink in that, if he can, the two lacks, which he thinks he is not able to justify, but which he fears will be proved against him. The lack and an half, I do believe, he will not be advised to contest, but whether he is or no, we shall load him with it; we shall prove it beyond all doubt. But there are other circumstances further auxiliary in this business, which, from the very attempts to conceal it, prove beyond doubt, the fraudulent and wicked nature of the transaction. In the account given by the begum, a lack, which is for Mr. Hastings's entertainment, is entered in a suspicious neighbourhood; for there is there entered a lack of rupees, paid for the soubahdarry sunnuds to the Mogul through the rajah Shitabroy. Upon looking into the account, and comparing it with another paper produced, the first thing we find is, that this woman charges the sum paid, to be a sum due: and then she charges this one lack to have been paid, when the Mogul was in the hands of the Mahrattas, when all communication with him was stopped, and when rajah Shitabroy, who is supposed to have paid it, was under confinement in the hands of Mr. Hastings. Thus she endeavours to conceal the lack of rupees paid to Mr. Hastings.

In order to make this transaction, which, though not in itself intricate, is in some degree made so by Mr. Hastings, clear to your lordships, we pledge ourselves to give to your lordships, what must be a great advantage to the culprit himself, a syllabus—the heads of all this charge, and of the proofs themselves, with their references; to show how far the proof goes to the two lacks, and then to the one lack and an half singly: this we shall put in writing, that you may not depend upon the fugitive memory of a thing not so well perhaps, or powerfully, expressed as it ought to be; and in order to give every advantage to the defendant, and to give every facility to your lordships' judgment; and this will, I believe, be thought a clear and fair way of proceeding. Your lordships will then judge whether Mr. Hastings's conduct at the time,—his resisting an inquiry, preventing his servant appearing as an evidence, discountenancing and discouraging his colleagues, raising every obstruction to the prosecution, dissolving the council, preventing evidence, and destroying it as far as lay in his power by collateral means, be not also such presumptive proofs, as give double force to all the positive proof we produce against him.

The lack and an half, I know, he means to support upon the custom of entertainment; and your lordships will judge whether or not a man, who was ordered, and had covenanted never to take more than £.400 could take £.16,000 under colour of an entertainment. That which he intends to produce as a justification we charge, and your lordships and the world will think, to be the heaviest aggravation of his crime. And after explaining to your lordships the circumstances, under which this justification is made, and leaving a just impression of them upon your minds, I shall beg

your lordships' indulgence to finish this member of the business to-morrow.

It is stated and entered in the account, that an entertainment was provided for Mr. Hastings at the rate of £.200 a day. He staid at Moorshedabab for near three months; and thus you see, that visits from Mr. Hastings are pretty expensive things: it is at the rate of £.73,000 a year for his entertainment. We find that Mr. Middleton, and English gentleman who was with him, received likewise, whether under the same pretence I know not, and it does not signify, another sum equal to it; and if these two gentlemen had staid in that country a year, their several allowances would have been £.146,000 out of the nabob's allowance of 160,000*l.* a year: they would have eat up nearly the whole of it. And do you wonder, my lords, that such guests and such hosts are difficult to be divided? Do you wonder, that such visits when so well paid for, and well provided for, were naturally long? There is hardly a prince in Europe, who would give to another prince of Europe from his royal hospitality, what was given upon this occasion to Mr. Hastings.

Let us now see what was Mr. Hastings's business during this long protracted visit. First, he tells you, that he came there to reduce all the state and dignity of the nabob. He tells you, that he felt no compunction in reducing that state; that the elephants, the menagerie, the stables, all went without mercy, and consequently all the persons concerned in them were dismissed also. When he came to the abolition of the pensions, he says, "I proceeded with great pain from the reflection, that I was the instrument in depriving whole families, all at once, of their bread, and reducing them to a state of penury; convinced of the necessity of the measure, I endeavoured to execute it with great impartiality." Here he states the work he was employed in, when he took this two hundred pounds a day for his own pay. "It was necessary to begin with reforming the useless servants of the court, and retrenching the idle parade of elephants, menageries, &c. which loaded the civil list. This cost little regret in performing; but the resident, who took upon himself the chief share in this business, acknowledges, that he suffered considerably in his feelings, when he came to touch on the pension list. Some hundreds of persons of the antient nobility of the country, excluded, under our government, from almost all employments, civil or military, had, ever since the revolution, depended on the bounty of the nabob; and near ten lacks were bestowed that way. It is not that the distribution was always made with judgment or impartial, and much room was left for a reform; but when the question was to cut off entirely the greatest part, it could not fail to be accompanied with circumstances of real distress. The resident declares, that even with some of the highest rank he could not avoid discovering, under all the pride of eastern manners, the manifest marks of penury and want. There was, however, no room left for hesitation; to confine the nabob's expenses within the limited sum, it was necessary, that pensions should be set aside."

Here, my lords, is a man sent to execute one of the most dreadful offices, that was ever executed by man, to cut off, as he says himself, with a bleeding heart the only remaining allowance made for hundreds of the decayed nobility and gentry of a great kingdom, driven by our government from the offices, upon which they existed. In this moment of anxiety and affliction, when he says, he felt pain and was cut to the heart to do it, at this very moment, when he was turning over fourteen hundred of the antient nobility and gentry of this country to downright want of bread; just at that moment, while he was doing this act, and feeling this act in this manner, from the collected morsels forced from the mouths of that indigent and famished nobility, he gorged his own ravenous maw with an allowance of two hundred pounds a day for his entertainment. As we see him in this business, this man is unlike any other: he is also never corrupt but he is cruel; he never dines without creating a famine; he does not take from the loose superfluity of standing greatness, but falls upon the indigent, the oppressed, and ruined; he takes to himself double what would maintain them. His is unlike the generous rapacity of the noble eagle, who preys upon a living, struggling, reluctant, equal victim; his is like that of the ravenous vulture, who falls upon the decayed, the sickly, the dying, and the dead, and only anticipates nature in the destruction of its object. His cruelty is beyond his corruption: but there is something in his hypocrisy, which is more terrible than his cruelty; for at the very time, when with double and unsparing hands he executes a proscription, and sweeps off the food of hundreds of the nobility and gentry of a great country, his eyes overflow with tears; and he turns the precious balm, that bleeds from wounded humanity, and is its best medicine, into fatal, rancorous, mortal poison to the human race.

You have seen, that when he takes two hundred pounds a day for his entertainment, he tells you, that in this very act, he is starving fourteen hundred of the antient nobility and gentry. My lords, you have the blood of nobles, if not, you have the blood of men in your veins; you feel as nobles, you feel as men. What would you say to a cruel Mogul exacter, by whom after having been driven from your estates, driven from the noble offices, civil and military, which you hold, driven from your bishoprics, driven from your places at court, driven from your offices as judges, and after having been reduced to a miserable flock of pensioners, your very pensions were at last wrested from your mouths; and who, though at the very time when those pensions were wrested from you he declares them to have been the only bread of a miserable decayed nobility, takes himself two hundred pounds a day for his entertainment, and continues it till it amounts to sixteen thousand pounds? I do think, that of all the corruptions, which he has not owned, but has not denied, or of those, which he does in effect own, and of which he brings forward the evidence himself, the taking and claiming under colour of an entertainment, is ten times the most nefarious.

I shall this day only further trouble your lordships to observe, that he has never directly denied this transaction. I have tumbled over the records, I have looked at every part to see whether he denies it; he did not deny it at the time, he did not deny it to the court of directors: on the contrary, he did in effect acknowledge it, when, without directly acknowledging it, he promised them a full and liberal explanation of the whole transaction. He never did give that explanation. Parliament took up the business; this matter was reported at the end of the eleventh report. But though the House of Commons had thus reported it, and made that public, which before was upon the company's records, he took no notice of it. Then another occasion arises: he comes before the House of Commons; he knows he is about to be prosecuted for these very corruptions: he well knows these charges exist against him; he makes his defence (if he will allow it to be his defence;) but though thus driven he did not there deny it, because he knew, that if he had denied it, it could be proved against him. I desire your lordships will look at that paper, which we have given in evidence, and see if you find a word of denial of it; there is much discourse, much folly, much insolence, but not one word of denial. Then, at last, it came before this tribunal against him. I desire to refer your lordships to that part of his defence to the article, in which this bribe is specifically charged; he does not deny it there; the only thing, which looks like a denial, is one sweeping clause inserted (in order to put us upon the proof,) that all the charges are to be conceived as denied; but a specific denial to this specific charge, in no stage of the business, from beginning to end, has he once made: and, therefore, here I close that part of the charge, which relates to the business of Nundcomar. Your lordships will see such a body of presumptive proof, and positive proof, as never was given yet of any secret corrupt act of bribery; and there I leave it with your lordships' justice.

I beg pardon for having detained you so long; but your lordships will be so good as to observe, that no business ever was covered with more folds of iniquitous artifice than this, which is now brought before you.

TRIAL.—SATURDAY, 25th April 1789.

(Mr. Burke,)

My Lords,—When I last had the honour of addressing your lordships, I endeavoured to state with as much perspicuity as the nature of an intricate affair would admit, and as largely as in so intricate an affair was consistent with the brevity, which I endeavoured to preserve, the proofs, which had been adduced against Warren Hastings upon an inquiry, instituted by an order of the court of directors, into the corruption and peculation of persons in authority in India. My lords, I have endeavoured to show you by anteriour presumptive proofs, drawn from the nature and circumstances of the acts themselves inferring guilt, that such actions and such conduct could be referrible only to one cause, namely, *corruption*. I endeavoured to show you afterwards, my lords, what the specific nature and extent of the corruption was, as far as it could be fully proved: and lastly, the great satisfactory presumption, which attended the inquiry with regard to Mr. Hastings; namely, that contrary to law, contrary to his duty, contrary to what is owed by innocence to itself, Mr. Hastings resisted that inquiry, and employed all the power of his office to prevent the exercise of it, either in himself or in others.—These presumptions, and these proofs, will be brought before your lordships

distinctly and in order, at the end of this opening.

The next point, on which I thought it necessary to proceed, was relative to the presumptions, which his subsequent conduct gave with regard to his guilt: because, my lords, his uniform tenour of conduct, such as must attend guilt, both in the act, at the time of the inquiry, and subsequent to it, will form such a body of satisfactory evidence as, I believe, the human mind is not made to resist. My lords, there is another reason why I choose to enter into the presumptions drawn from his conduct and the fact, taking his conduct in two parts, if it may be so expressed, *omission* and *commission*, in order that your lordships should more fully enter into the consequences of this system of bribery. But, before I say any thing upon that, I wish your lordships to be apprized, that the Commons, in bringing this bribe of three lacks and an half before your lordships, do not wish by any means to have it understood, that this is the whole of the bribe, that was received by Mr. Hastings, in consequence of delivering up the whole management of the government of the country to that improper person, whom he nominated for it.

My lords, from the proofs, that will be adduced before you, there is great probability, that he received very nearly a hundred thousand pounds: there is positive proof of his receiving fifty; and we have chosen only to charge him with that, of which there is such an accumulated body of proof as to leave no doubt upon the minds of your lordships. All this I say, because we are perfectly apprized of the sentiments of the public upon this point: when they hear of the enormity of Indian peculation, when they see the acts done, and compare them with the bribes received, the acts seem so enormous, and the bribes comparatively so small, that they can hardly be got to attribute them to that motive. What I mean to state is this, that from a collective view of the subject your lordships will be able to judge, that enormous offences have been committed, and that the bribe, which we have given in proof, is a specimen of the nature and extent of those enormous bribes, which extend to much greater sums than we are able to prove before you in the manner your lordships would like and expect.

I have already remarked to your lordships, that after this charge was brought and recorded before the council in spite of the resistance made by Mr. Hastings, in which he employed all the power and authority of his station, and the whole body of his partizans and associates in iniquity dispersed through every part of these provinces: after he had taken all these steps, finding himself pressed by the proof and pressed by the presumption of his resistance to the inquiry, he did think it necessary to make something like a defence. Accordingly he has made what he calls a justification, which did not consist in the denial of that fact, or any explanation of it. The mode he took for his defence was abuse of his colleagues, abuse of the witnesses, and of every person, who, in the execution of his duty, was inquiring into the fact; and charging them with things, which, if true, were by no means sufficient to support him, either in defending the acts themselves, or in the criminal means he used to prevent inquiry into them. His design was to mislead their minds, and to carry them from the accusation and the proof of it. With respect to the passion, violence, and intemperate heat, with which he charged them, they were proceeding in an orderly regular manner, and if, on any occasion, they seem to break out into warmth, it was in consequence of that resistance, which he made to them, in what your lordships, I believe, will agree with them in thinking was one of the most important parts of their functions. If they had been intemperate in their conduct; if they had been violent, passionate, prejudiced against him, it afforded him only a better means of making his defence, because, though in a rational and judicious mind, the intemperate conduct of the accuser certainly proves nothing with regard to the truth or falsehood of his accusation, yet we do know, that the minds of men are so constituted, that an improper mode of conducting a right thing does form some degree of prejudice against it. Mr. Hastings, therefore, unable to defend himself upon principle, has resorted as much as he possibly could to prejudice. And at the same time, that there is not one word of denial, or the least attempt at a refutation of the charge, he has loaded the records with all manner of minutes, proceedings, and letters, relative to every thing but the fact itself. The great aim of his policy, both then, before, and ever since, has been to divert the mind of the auditory, or the persons, to whom he addressed himself, from the nature of his cause, to some collateral circumstance relative to it: a policy, to which he has always had recourse; but that trick, the last resource of despairing guilt, I trust will now completely fail him.

Mr. Hastings, however, began to be pretty sensible, that this way of proceeding had a

very unpromising and untoward look; for which reason he next declared, that he reserved his defence for fear of a legal prosecution: and that some time or other he would give a large and liberal explanation to the court of directors to whom he was answerable for his conduct, of his refusing to suffer the inquiry to proceed, —of his omitting to give them satisfaction at the time,—of his omitting to take any one natural step, that an innocent man would have taken upon such an occasion. Under this promise he has remained from that time to the time you see him at your bar, and he has neither denied, exculpated, explained, or apologized for his conduct in any one single instance.

While he accuses the intemperance of his adversaries, he shows a degree of temperance in himself, which always attends guilt in despair; for struggling guilt may be warm, but guilt, that is desperate, has nothing to do but to submit to the consequences of it, to bear the infamy annexed to its situation, and to try to find some consolation in the effects of guilt with regard to private fortune for the scandal it brings them into in public reputation. After the business had ended in India, the causes why he should have given the explanation grew stronger and stronger; for not only the charges exhibited against him were weighty, but the manner, in which he was called upon to inquire into them, was such as would, undoubtedly, tend to stir the mind of a man of character, to rouse him to some consideration of himself, and to a sense of the necessity of his defence. He was goaded to make this defence by the words I shall read to your lordships from Sir John Clavering.

"In the late proceedings of the revenue board it will appear, that there is no species of peculation, from which the honourable governour-general has thought it reasonable to abstain." He further says, in answer to Mr. Hastings, "The malicious view, with which this innuendo (an innuendo of Mr. Hastings) is thrown out, is only worthy of a man, who, having disgraced himself in the eyes of every man of honour both in Asia and in Europe, and having no imputation to lay to our charge, has dared to attempt in the dark what malice itself could not find grounds to aim at openly."

These are the charges, which were made upon him—not loosely in the heat of conversation, but deliberately in writing, entered upon record, and sent to his employers the court of directors; those whom the law had set over him, and to whose judgment and opinion he was responsible. Do your lordships believe, that it was conscious innocence, that made him endure such reproaches, so recorded, from his own colleague? Was it conscious innocence, that made him abandon his defence, renounce his explanation, and bear all this calumny, if it was calumny, in such a manner, without making any one attempt to refute it? Your lordships will see by this and by other minutes, with which the books are filled, that Mr. Hastings is charged quite to the brim with corruptions of all sorts, and covered with every mode of possible disgrace; for, there is something so base and contemptible in the crimes of peculation and bribery, that when they come to be urged home and strongly against a man, as here they are urged, nothing but a consciousness of guilt can possibly make a person so charged support himself under them. Mr. Hastings considered himself, as he has stated, to be under the necessity of bearing them. What is that necessity? Guilt. Could he say, that Sir John Clavering (for I say nothing now of Colonel Monson and Mr. Francis, who were joined with him) was a man weak and contemptible? I believe there are those among your lordships, who remember, that Sir John Clavering was known before he went abroad, and better known by his conduct after, to be a man of the most distinguished honour, that ever served his majesty; he served his majesty in a military situation for many years, and afterwards in that high civil situation in India. It is known, that through every step and gradation of a high military service, until he arrived at the highest of all, there never was the least blot upon him, or doubt or suspicion of his character: that his temper for the most part, and his manners, were fully answerable to his virtues, and a noble ornament to them; that he was one of the best natured, best bred men, as well as one of the highest principled men to be found in his majesty's service; that he had passed the middle time of life, and come to an age, which makes men wise in general; so that he could be warmed by nothing but that noble indignation at guilt, which is the last thing that ever was or will be extinguished in a virtuous mind. He was a man, whose voice was not to be despised; but, if his character had been personally as contemptible as it was meritorious and honourable in every respect, yet his situation as a commissioner, named by an act of parliament for the express purpose of reforming India, gave him a weight and consequence, that could not suffer Mr. Hastings, without a general and strong presumption of his guilt, to acquiesce in such recorded minutes from him. But if he had been

a weak, if he had been an intemperate man—in reality he was as cool, steady, temperate, judicious a man as ever was born,—the court of directors, to whom Mr. Hastings was responsible by every tie and every principle, and was made responsible at last by a positive act of parliament obliging him to yield obedience to their commands as the general rule of his duty: the court of directors, I say, perfectly approved of every part of General Clavering's, Colonel Monson's, and Mr. Francis's conduct; they approved of this inquiry, which Mr. Hastings rejected, and they have declared, "That the powers and instructions vested in and given to General Clavering and the other gentlemen were such as fully authorized them in every inquiry, that seems to have been their object* * * * Europeans."

Now after the supreme authority, to which they were to appeal in all their disputes, had passed this judgment upon this very inquiry, the matter no longer depended upon Mr. Hastings's opinion; nor could he be longer justified in attributing that to evil motives either of malice or passion in his colleagues. When the judges, who were finally to determine, who was malicious, who was passionate, who was or was not justified, either in setting on foot the inquiry or resisting it, had passed that judgment, then Mr. Hastings was called upon by all the feelings of a man, and by his duty in council, to give satisfaction to his masters the directors, who approved of the zeal and diligence shown in that very inquiry, the passion of which he only reprobated, and upon which he grounded his justification.

If any thing but conscious guilt could have possibly influenced him to such more than patience under this accusation, let us see what was his conduct, when the scene was changed. General Clavering, fatigued and broken down by the miseries of his situation, soon afterwards lost a very able and affectionate colleague, Colonel Monson (whom Mr. Hastings states to be one of the bitterest of his accusers) a man one of the most loved and honoured of his time; a person of your lordships' noble blood, and a person who did honour to it, and if he had been of the family of a commoner, well deserved to be raised to your distinction. When that man died—died of a broken heart, to say nothing else, and General Clavering felt himself in a manner without help, except what he derived from the firmness, assiduity, and patience of Mr. Francis, sinking like himself under the exertion of their own virtues, he was resolved to resign his employment. The court of directors were so alarmed at this attempt of his to resign his employment, that they wrote thus; "When you conceived the design of quitting our service, we imagine you could not have heard of the resignation of Mr. Hastings† * * * * * your zeal and ability."

My lords, in this struggle, and before he could resign finally, another kind of resignation, the resignation of nature, took place, and Sir John Clavering died. The character, that was given Sir John Clavering at that time, is a seal to the whole of his proceedings, and the use, that I shall make of it, your lordships will see presently. "The abilities of General Clavering, the comprehensive knowledge he had attained of our affairs,‡ * * * * * * * * to the East-India Company."

And never had it a greater loss. There is the concluding funeral oration made by his masters, upon a strict, though by no means partial, view of his conduct. My lords, here is the man, who is the great accuser of Mr. Hastings, as he says: what is he? a slight man, a man of mean situation, a man of mean talents, a man of mean character? No, of the highest character. Was he a person, whose conduct was disapproved by their common superiors? No, it was approved when living, and ratified when dead. This was the man, a man equal to him in every respect, upon the supposed evil motives of whom alone was founded the sole justification of Mr. Hastings.

But, be it then, that Sir John Clavering, Colonel Monson, and Mr. Francis, were all of them the evil-minded persons, that he describes them to be; and that from dislike to them, from a kind of manly resentment, if you please, against such persons, an hatred against malicious proceedings, and a defiance of them, he did not think proper, as he states, to make his defence during that period of time, and while oppressed by that combination, yet, when he got rid of the two former persons, and when Mr. Francis was nothing; when the whole majority was in his hand, and he was in full power, there was a large, open, full field for inquiry; and he was bound to re-institute that inquiry, and to clear his character before his judges and before his masters. Mr. Hastings says, No; they have threatened me with a prosecution, and I reserve myself for a court of justice.

Mr. Hastings has now at length taken a ground, as you will see from all his writings,

* Document wanting. † Document wanting. ‡ Document wanting.

which makes all explanation of his conduct in this business absolutely impossible. For, in the first place, he says, as a prosecution is meditated against me, I will say nothing in explanation of my conduct, because I might disclose my defence, and, by that means, do myself a prejudice. On the other hand, when the prosecution is dropped, as we all know it was dropped in this case, then he has a direct contrary reason, but it serves him just as well. Why, as no prosecution is intended, no defence need be made: so that whether a prosecution is intended, or a prosecution dropped, there is always cause, why Mr. Hastings should not give the court of directors the least satisfaction concerning his conduct, notwithstanding, as we shall prove, he has reiteratedly promised, and promised it in the most ample and liberal manner. But, let us see if there be any presumption in his favour to rebut the presumption, which he knew was irresistible, and which by making no defence for his conduct, and stopping the inquiry, must necessarily lie upon him. He reserves his defence, but he promises both defence and explanation.

Your lordships will remark, that there is no where a clear and positive denial of the fact. Promising a defence, I will admit, does not directly and *ex vi termini* suppose, that a man may not deny the fact, because it is just compatible with the defence, but it does by no means exclude the admission of the fact, because the admission of the fact may be attended with a justification; but, when a man says, that he will explain his conduct with regard to a fact, then he admits that fact, because there can be no explanation of a fact, which has no existence. Therefore, Mr. Hastings admits the fact, by promising an explanation, and he shows he has no explanation or justification to give, by never having given it. Goaded, provoked, and called upon for it in the manner I have mentioned, he chooses to have a feast of disgrace, if I may say so; to have a riot of infamy served up to him day by day for a course of years in every species of reproach, that could be given by his colleagues, and by the court of directors, from whom, he says, I received nothing but opprobrious and disgraceful epithets, and he says, "that his predecessors possessed more of their confidence than he had."

Yet, for years, he lay down in that sty of disgrace, fattening in it; feeding upon that offal of disgrace and excrement, upon every thing that could be disgustful to the human mind, rather than deny the fact, and put himself upon a civil justification. Infamy was never incurred for nothing. We know very well what was said formerly,

> "Populus me sibilat; at mihi plaudo
> Ipse domi, simul ac nummos contemplor in arca."

And never did a man submit to infamy for any thing but its true reward, *money*. Money he received, the infamy he received along with it; he was glad to take his wife with all her goods; he took her with her full portion; with every species of infamy, that belonged to her; and your lordships cannot resist the opinion, that he would not have suffered himself to be disgraced with the court of directors, disgraced with his colleagues, disgraced with the world, disgraced upon an eternal record, unless he was absolutely guilty of the fact, that was charged upon him.

He frequently expresses, that he reserves himself for a court of justice. Does he, my lords? I am sorry, that Mr. Hastings should show, that he always mistakes his situation; he has totally mistaken it: he was a servant bound to give a satisfactory account of his conduct to his masters; and instead of that he considers himself and the court of directors as litigant parties, them as the accusers, and himself as the culprit. What would your lordships in private life conceive of a steward, who was accused of embezzling the rents, robbing and oppressing the tenants, and committing a thousand misdeeds in his stewardship, and who, upon your wishing to make inquiry into his conduct, and asking an explanation of it, should answer, I will give no reply: you may intend to prosecute me, and convict me, as a cheat, and therefore I will not give you any satisfaction; what would you think of that steward? You could have no doubt, that such a steward was a person not fit to be a steward, nor fit to live.

Mr. Hastings reserves himself for a court of justice; that single circumstance, my lords, proves that he was guilty. It may appear very odd, that his guilt should be inferred from his desire of trial in a court, in which he could be acquitted or condemned. But I shall prove to you from that circumstance, that Mr. Hastings, in desiring to be tried in a court of justice, convicts himself of presumptive guilt.

When Mr. Hastings went to Bengal in the year 1772, he had a direction exactly similar to this, which he has resisted in his own case; it was to inquire into grievances and abuses. In consequence of this direction he proposes a plan for the regulation of the company's service, and one part of that plan was just what you would expect from him, that is, the power of destroying every company's servant without the least pos-

sibility of his being heard in his own defence or taking any one step to justify himself, and of dismissing him at his own discretion: and the reason he gives for it is this: "I shall forbear to comment upon the above propositions: if just and proper, their utility will be self-apparent; one clause only in the last article may require some explanation, namely, the power proposed for the governour of recalling any person from his station without assigning a reason for it. In the charge of oppression" (now here you will find the reason, why Mr. Hastings wishes to appeal to a court of justice, rather than to give satisfaction to his employers) "though supported by the cries of the people, and the most authentic representations, it is yet impossible in most cases to obtain legal proofs of it; and unless the discretionary power, which I have recommended, be somewhere lodged, the assurance of impunity from any formal inquiry will baffle every order of the board, as, on the other hand, the fear of the consequence will restrain every man within the bounds of his duty, if he knows himself liable to suffer by the effects of a single controul." You see Mr. Hastings himself is of opinion, that the cries of oppression, though extorted from a whole people by the iron hand of severity: that those cries of a whole people, attended even with authentic documents, sufficient to satisfy the mind of any man, may be totally insufficient to convict the oppressor in a court; and yet to that court, whose competence he denies, to that very court he appeals, in that he puts his trust, and upon that ground he refuses to perform the just promise he had given of any explanation to those who had employed him.

Now I put this to your lordships; if a man is of opinion, that no public court can truly and properly bring him to any account for his conduct; that the forms observable in courts are totally adverse to it; that there is a general incompetency with regard to such a court; and yet shuns a tribunal capable and competent, and applies to that, which he thinks is incapable and incompetent, does not that man plainly show, that he has rejected what he thinks will prove his guilt, and that he has chosen what he thinks will be utterly insufficient to prove it? And if this be the case, as he asserts it to be, with an under servant, think what must be the case of the upper servant of all; for, if an inferiour servant is not to be brought to justice, what must be the situation of a governour-general? It is impossible not to see, that, as he had conceived, that a court of justice had not sufficient means to bring his crimes to light and detection, nor sufficient to bring him to proper and adequate punishment, therefore he flew to a court of justice, not as a place to decide upon him, but as a sanctuary to secure his guilt. Most of your lordships have travelled abroad, and have seen in the unreformed countries of Europe churches filled with persons, who take sanctuary in them. You do not presume, that a man is innocent because he is in a sanctuary; you know, that so far from demonstrating his innocence it demonstrates his guilt; and, in this case, Mr. Hastings flies not to a court for trial, but as a sanctuary to secure him from it.

Let us just review the whole of his conduct; let us hear how Mr. Hastings has proceeded with regard to this whole affair. The court of justice dropped; the prosecution in Bengal ended. With Sir Elijah Impey, as chief justice, who as your lordships have seen had a most close and honourable connexion with the governour-general (all the circumstances of which I need not detail to you, as it must be fresh in your lordships' memory) he had not much to fear from the impartiality of the court. He might be sure the forms of law would not be strained to do him mischief; therefore there was no great terrour in it; but whatever terrour there might be in it was overblown, because his colleagues refused to carry him into it, and therefore that opportunity of defence is gone. In Europe he was afraid of making any defence, but the prosecution here was also soon over; and in the House of Commons he takes this ground of justification for not giving any explanation, that the court of directors had received perfect satisfaction of his innocence; and he named persons of great and eminent character in the profession, whose names certainly cannot be mentioned without highly imposing upon the prejudices and weighing down almost the reason of mankind. He quotes their opinions in his favour, and argues, that the exculpation, which they give, or are supposed to give him, should excuse him from any further explanation.

My lords, I believe I need not say to great men of the profession, many of the first ornaments of which I see before me, that they are very little influenced in the seat of judgment by the opinions which they have given in the chamber, and they are perfectly in the right; because while in the chamber they hear but one part of the cause; it is generally brought before them in a very partial manner, and they have not the lights, which they possess, when they sit deliberately down upon the tri-

bunal to examine into it; and for this reason they discharge their minds from every prejudice, that may have arisen from a foregone partial opinion, and come uninfluenced by it as to a new cause. This, we know, is the glory of the great lawyers, who have presided, and do preside, in the tribunals of this country; but we know at the same time, that those opinions (which they in their own mind reject, unless supported afterwards by clear and authentic testimony) do weigh upon the rest of mankind at least; for it is impossible to separate the opinion of a great and learned man from some consideration of the person, who has delivered that opinion.

Mr. Hastings being conscious of this, and not fearing the tribunal abroad for the reason that I gave you, namely, his belief that it was not very adverse to him; and also knowing that the prosecution there was dropped, had but one thing left for his consideration, which was, how he should conflict with the tribunal at home: and, as the prosecution must originate from the court of directors, and be authorized by some great law opinions, the great point with him was, some way or other by his party, I will not say by what means or circumstances, but by some party means, to secure a strong interest in the executive part of the India house. My lords, was that interest used properly and fairly? I will not say, that friendship and partiality imply injustice; they certainly do not; but they do not imply justice. The court of directors took up this affair with great warmth; they committed it to their solicitor, and the solicitor would naturally (as most solicitors do) draw up a case a little favourably for the persons that employed him; and if there was any leaning, which upon my word I do not approve in the management of any cause whatever, yet if there was a leaning, it must be a leaning for the client.

Now the council did not give a decided opinion against the prosecution, but, upon the face of the case, they expressed great doubts upon it; for with such a strange, disorderly, imperfect, and confused case, as was laid before them, they could not advise a prosecution: and, in my opinion, they went no further; and indeed upon that case, that went before them, I, who am authorized by the Commons to prosecute, do admit, that a great doubt might lie upon the most deciding mind, whether, under the circumstances there stated, a prosecution could be or ought to be pursued. I do not say, which way my mind would have turned upon that very imperfect state of the case; but I still allow so much to their very great ability, great minds, and sound judgment, that I am not sure, if it was *res integra*, I would not have rather hesitated myself (who am now here an accuser) what judgment to give.

It does happen, that there are very singular circumstances in this business, to which your lordships will advert; and you will consider, what weight they ought to have upon your lordships' minds. The person, who is now the solicitor of the company, is a very respectable man in the profession—Mr. Smith; he was at that time also the company's solicitor, and he has since appeared in this cause as Mr. Hastings's solicitor. Now there is something particular in a man's being the solicitor to a party, who was prosecuting another, and continuing afterwards in his office, and becoming the solicitor to the party prosecuted. It would be nearly as strange, as if our solicitor were to be the solicitor of Mr. Hastings in this persecution and trial before your lordships. It is true, that we cannot make out, nor do we attempt to prove, that Mr. Smith was, at that time, actually Mr. Hastings's solicitor: all that we shall attempt to make out is, that the case he produced was just such a case, as a solicitor, anxious for the preservation of his client, and not anxious for the prosecution, would have made out. My lords, I have next to remark, that the opinion, which the council gave in this case, namely, a very doubtful opinion, accompanied with strong censure of the manner in which the case was stated, was drawn from them by a case, in which, I charge, that there were *misrepresentation*, *suppression*, and *falsification*.

Now, my lords, in making this charge I am in a very awkward and unpleasant situation; but it is a situation, in which, with all the disagreeable circumstances attending it, I must proceed. I am, in this business, obliged to name many men: I do not name them wantonly, but from the absolute necessity, as your lordships will see, of the case. I do not mean to reflect upon this gentleman; I believe, at the time when he made this case, and especially the article, which I state as a *falsification*, he must have trusted to some of the servants of the company, who were but young in their service at that time. There was a very great errour committed, but by whom, or how, your lordships in the course of this inquiry will find. What I charge first is, that the case was improperly stated; 2dly, that it was partially stated; and that, afterwards, a further report was made upon reference to the same officer in the committee. Now, my lords, of the three charges, which I have made, the

two former, namely, the misrepresentation, and suppression, were applicable to the case; but all the three, misrepresentation, suppression, and falsification, were applicable to the report.

This I say in vindication of the opinions given, and for the satisfaction of the public, who may be imposed upon by them. I wish the word to be understood: when I say *imposed*, I always mean by it the weight and authority carried; a meaning, which this word perhaps has not got yet thoroughly in the English language; but in a neighbouring language *imposing* means, that it weighs upon men's minds with a sovereign authority. To say, that the opinions of learned men, though even thus obtained, may not have weight with this court, or with any court, is a kind of compliment I cannot pay to them at the expense of that common nature, in which I and all human beings are involved.

He states in the case the covenants and the salary of Mr. Hastings, and his emoluments, very fairly. I do not object to any part of that. He then proceeds to state very partially the business, upon which the committee of circuit went, and without opening whose conduct we cannot fully bring before you this charge of bribery. He then states, "That an inquiry having been made by the present supreme council of Bengal, respecting the conduct of the members of the last administration, several charges have been made, stating moneys very improperly received by Mr. Hastings during the time of the late administration; among these is one, of his having received 150,000 rupees of Munny Begum, the guardian of the nabob, who is an infant."

In this statement of the case every thing is put out of its true place. Mr. Hastings was not charged with receiving a lack and an half of rupees from Munny Begum, the guardian of the nabob, for she was not then his guardian; but he was charged with receiving a lack and an half of rupees for removing the nabob's own mother, who was his natural guardian, and substituting this step-mother, who was a prostitute, in her place; whereas here it supposes he found her a guardian, and that she had made him a present, which alters the whole nature of the case. The case, in the recital of the charge, sets out with what every one of your lordships knows now not to be the truth of the fact, nor the thing, that in itself implies the criminality: he ought to have stated that in the beginning of the business. The suppressions in the recital are amazing: he states an inquiry having been made by the supreme council of Bengal respecting the conduct of the members of the last administration. That inquiry was made in consequence of the charge and not the charge brought forward, as they would have it believed, in consequence of the inquiry. There is no mention, that that inquiry had been expressly ordered by the court of directors; but it is stated, as though it was a voluntary inquiry. Now there is always something doubtful in voluntary inquiries with regard to the people concerned. He then supposes upon this inquiry that to be the charge, which is not the charge at all. The crime, as I have stated, consisted of two distinct parts, but both inferring the same corruption: the first, two lacks of rupees taken expressly for the nomination of this woman to this place, and the other, one lack and an half of rupees in effect for the same purpose, but under the name and colour of an entertainment. The drawer of the case finding, that in the one case, namely, the two lacks of rupees, the evidence was more weak, but that no justification could be set up; finding in the other, the lack and an half of rupees, the proof strong, and not to be resisted, but that some justification was to be found for it, lays aside the charge of the two lacks totally; and the evidence belonging to it, which was considered as rather weak, is applied to the other charge of a lack and an half, the proof of which upon its own evidence was irresistible.

My speech, I hope, your lordships consider as only pointing out to your attention these particulars. Your lordships will see it exemplified throughout the whole, that when there is evidence (for some evidence is brought) that does belong to the lack and an half, it is entirely passed by, the most material circumstances are weakened, the whole strength and force of them taken away. Every one knows how true it is of evidence, *juncta juvant:* but here every thing is broken and smashed to pieces, and nothing but disorder appears through the whole. For your lordships will observe, that the proof, that belongs to one thing, is put as belonging to another, and the proof of the other brought in a weak and imperfect manner in the rear of the first, and with every kind of observation to rebut and weaken it; and when this evidence is produced, which appears inapplicable almost in all the parts, in many doubtful, confused, and perplexed, and in some even contradictory, which it will be, when the evidence to one thing is brought to apply and bear upon another: good hopes were entertained in consequence, that that would happen, which in part did happen,

namely, that the counsel, distracted and confused, and finding no satisfaction in the case, could not advise a prosecution.

But what is still more material and weighty, many particulars are suppressed in this case, and still more in the report; and turning from the case to the proceedings of the persons, who are supposed to have the management of the inquiry, they bring forward, as an appendix to this case, Mr. Hastings's own invectives and charge against these persons, at the very same time that they suppress and do not bring forward, either in the charge or upon the report, what the other party have said in their own justification. The consequence of this management was, that a body of evidence, which would have made this case the clearest in the world, and which I hope we shall make to appear so to your lordships, was rendered for the most part inapplicable, and the whole puzzled and confused: I say, for the most part, for some parts did apply, but miserably applied, to the case. From their own state of the case they would have it inferred, that the fault was not in their way of representing it, but in the infirmity, confusion, and disorder of the proofs themselves; but this, I trust, we shall satisfy you is by no means the case. I rest, however, upon the proof of partiality in this business, of the imposition upon the council, whether designed or not, and of the bias given by adding an appendix with Mr. Hastings's own remarks upon the case, without giving the reasons of the other parties for their conduct. Now, if there was nothing else than the fallacious recital, and afterwards the suppression, I believe any rational and sober man would see perfect, good, and sufficient ground for laying aside any authority, that can be derived from the opinions of persons, though of the first character: (and, I am sure, no man living does more homage to their learning, impartiality, and understanding, than I do:) first, because the statement of the case has thrown the whole into confusion; and secondly, as to the matter, added as an appendix, which gives the representation of the delinquent, and omits the representation of his prosecutors, it is observed very properly and very wisely by one of the great men, before whom this evidence was laid, that "The evidence, as it is here stated, is still more defective, if the appendix is adopted by the directors, and meant to make a part of the case. For that throws discredit upon all the information so collected." Certainly it does; for if the delinquent party, who is to be prosecuted, be heard with his own representation of the case, and that of his prosecutors be suppressed, he is master both of the lawyers, and of the mind of mankind.

My lords, I have here attempted to point out the extreme inconsistencies and defects of this proceeding; and I wish your lordships to consider, with respect to these proceedings of the India house in their prosecutions, that it is in the power of some of their officers to make statements in the manner that I have described, then to obtain the names of great lawyers, and under their sanction to carry the accused through the world as acquitted.

These are the material circumstances, which will be submitted to your lordships' sober consideration in the course of this inquiry. I have now stated them on these two accounts: first, to rebut the reason, which Mr. Hastings has assigned for not giving any satisfaction to the court of directors, namely, because they did not want it, having dropped a prosecution upon great authorities and opinions: and next to show your lordships, how a business, begun in bribery, is to be supported only by fraud, deceit, and collusion: and how the receiving of bribes by a governour-general of Bengal tends to taint the whole service from beginning to end, both at home and abroad.

But though upon the partial case, that was presented to them, these great lawyers did not advise a prosecution; and though even upon a full representation of a case, a lawyer might think that a man ought not to be prosecuted, yet he may consider him to be the vilest man upon earth. We know, men are acquitted in the great tribunals, in which several lords of this country have presided, and who, perhaps, ought not to have been brought there, and prosecuted before them, and yet about whose delinquency there could be no doubt. But though we have here sufficient reason to justify the great lawyers, whose names and authorities are produced, yet Mr. Hastings has extended that authority beyond the length of their opinions. For being no longer under the terrour of the law, which, he said, restrained him from making his defence, he was then bound to give that satisfaction to his masters and the world, which every man in honour is bound to do, when a grave accusation is brought against him. But this business of the law I wish to sleep from this moment, till the time when it shall come before you; though I suspect, and have had reason (sitting in committees in the House of Commons) to believe, that there was in the India house a bond of iniquity, somewhere or other, which was able to impose in the first instance upon the solicitor, the guilt of which being of another nature I shall state

hereafter, that your lordships may be able to discover, through whose means, and whose fraud, Mr. Hastings obtained these opinions.

If, however, all the great lawyers had been unanimous upon that occasion, still it would have been necessary for Mr. Hastings to say, I cannot, according to my opinion, be brought to give an account in a court of justice, and I have got great lawyers to declare, that upon the case laid before them they cannot advise a prosecution; but now is the time for me to come forward, and being no longer in fear, that my defence may be turned against me, I will produce my defence for the satisfaction of my masters, and the vindication of my own character. But besides this doubtful opinion, for I believe your lordships will find it no better than a doubtful opinion, given by persons for whom I have the highest honour, and given with a strong censure upon the state of the case, there were also some great lawyers, men of great authority in the kingdom, who gave a full and decided opinion, that a prosecution ought to be instituted against him; but the court of directors decided otherwise, they overruled those opinions, and acted upon the opinions in favour of Mr. Hastings. When, therefore, he knew, that the great men in the law were divided upon the propriety of a prosecution, but that the directors had decided in his favour, he was the more strongly bound to enter into a justification of his conduct.

But there was another great reason, which should have induced him to do this; one great lawyer, known to many of your lordships, Mr. Sayer, a very honest intelligent man, who had long served the company, and well knew their affairs, had given an opinion concerning Mr. Hastings's conduct in stopping these prosecutions. There was an abstract question put to Mr. Sayer, and other great lawyers, separated from many of the circumstances of this business, concerning a point, which incidentally arose; and this was, whether Mr. Hastings, as governour-general, had a power so to dissolve the council, that if he declared it dissolved, they could not sit, and do any legal and regular act. It was a great question with the lawyers at the time, and there was a difference of opinion on it. Mr. Sayer was one of those who were inclined to be of opinion, that the governour-general had a power of dissolving the council, and that the council could not legally sit after such dissolution: but what was his remark upon Mr. Hastings's conduct? and you must suppose his remark of more weight, because, upon the abstract question, he had given his opinion in favour of Mr. Hastings's judgment. "The meeting of the council depends on the pleasure of the governour; and I think the duration of it must do so too. But it was as great a crime to dissolve the council upon base and sinister motives, as it would be to assume the power of dissolving, if he had it not. I believe, he is the first governour, that ever dissolved a council inquiring into his behaviour, when he was innocent. Before he could summon three councils, and dissolve them, he had time fully to consider what would be the result of such conduct, *to convince every body, beyond a doubt, of his conscious guilt.*"

Mr. Sayer, then, among other learned people (and if he had not been the man that I have described, yet from his intimate connexion with the company his opinion must be supposed to have great weight) having used expressions as strong as the persons, who have ever criminated Mr. Hastings most for the worst of his crimes, have ever used to qualify and describe them, and having ascribed his conduct to base and sinister motives, he was bound upon that occasion to justify that strong conduct allowed to be legal, and charged at the same time, to be violent. Mr. Hastings was obliged then to produce something in his justification: he never did. Therefore, for all the reasons assigned by himself, drawn from the circumstances of prosecution and non-prosecution, and from opinions of lawyers and colleagues; the court of directors at the same time censuring his conduct, and strongly applauding the conduct of those, who were adverse to him, Mr. Hastings was, I say, from those accumulated circumstances, bound to get rid of the infamy of a conduct, which could be attributed to nothing but base and sinister motives, and which could have no effect but to convince men of his consciousness that he was guilty. From all these circumstances I infer, that no man could have endured this load of infamy, and, to this time, have given no explanation of his conduct, unless for the reason, which this learned counsel gives, and which your lordships, and the world will give, namely, his conscious guilt.

After leaving upon your minds that presumption, not to operate without proof, but to operate along with the proof (though, I take it, there are some presumptions, that go the full length of proof) I shall not press it to the length to which I think it would go, but use it only as auxiliary, assisting, and compurgatory of all the other evidences, that go along with it.

There is another circumstance, which must come before your lordships in this business. If you find, that Mr. Hastings has received the two lacks of rupees, then you will find, that he was guilty, without colour or pretext of any kind whatever, of acting in violation of his covenant, of acting in violation of the laws, and all the rules of honour and conscience. If you find, that he has taken the lack and an half, which he admits, but which he justifies under the pretence of an entertainment, I shall beg to say something to your lordships concerning that justification.

The justification set up is, that he went up from Calcutta to Moorshedabad, and paid a visit of three months, and that there an allowance was made to him of two hundred pounds a day in lieu of an entertainment. Now, my lords, I leave it to you to determine, if there was such a custom, whether or no his covenant justifies his conformity with it. I remember Lord Coke, talking of the *Brehon* law in Ireland, says, it is no law, but a lewd custom. A governour is to conform himself to the laws of his own country, to the stipulations of those that employ them, and not to the lewd customs of any other country: those customs are more honoured in the breach than in the observance. If Mr. Hastings was really feasted and entertained with the magnificence of the country, if there was an entertainment of dancing girls brought out to amuse him in his leisure hours, if he was feasted with the *hooka* and every other luxury, there is something to be said for him, though I should not justify a governour-general wasting his days in that manner. But in fact here was no entertainment, that could amount to such a sum; and he has no where proved the existence of such a custom.

But if such a custom did exist, which I contend is more honoured in the breach than in the observance, that custom is capable of being abused to the grossest extortion; and that it was so abused, will strike your lordships' minds in such a manner, that I hardly need detail the circumstances of it. What! £.200 to be given to a man for one day's entertainment? If there is an end of it there, it ruins nobody, and cannot be supposed, to a great degree, to corrupt any body; but, when that entertainment is renewed, day after day, for three months, it is no longer a compliment to the man, but a great pecuniary advantage; and, on the other hand, to the person giving it, a grievous, an intolerable burden. It then becomes a matter of the most serious and dreadful extortion, tending to hinder the people who give it, not only from giving entertainment, but from having bread to eat themselves. Therefore, if any such entertainment was customary, the custom was perverted by the abuse of its being continued for three months together. It was longer than Ahasuerus's feast. There is a feast of reason and a flow of soul; but Mr. Hastings's feast was a feast of avarice, and a flow of money: no wonder he was unwilling to rise from such a table; he continued to sit at that table for three months.

In his covenant he is forbidden expressly to take any allowance above £.400, and forbidden to take any allowance above £.100 without the knowledge, consent, and approbation of the council to which he belongs:—now, he takes £.16,000, not only without the consent of the council, but without their knowledge; without the knowledge of any other human being: it was kept hid in the darkest and most secret recesses of his own black agents and confidants, and those of Munny Begum. Why is it a secret? Hospitality, generosity, virtues of that kind, are full of display: there is an ostentation, a pomp in them; they want to be shown to the world, not concealed. The concealment of acts of charity is what makes them acceptable in the eyes of Him, with regard to whom there can be no concealment: but acts of corruption are kept secret, not to keep them secret from the eye of Him, whom the person, that observes the secrecy, does not fear, nor perhaps believe in; but to keep them secret from the eyes of mankind, whose opinions he does fear in the immediate effect of them, and in their future consequences. Therefore, he had but one reason to keep this so dark and profound a secret, till it was dragged into day in spite of him; he had no reason to keep it a secret, but his knowing it was a proceeding that could not bear the light. Charity is the only virtue, that I ever heard of, that derives from its retirement any part of its lustre; the others require to be spread abroad in the face of day. Such candles should not be hid under a bushel, and, like the illuminations which men light up when they mean to express great joy and great magnificence for a great event, their very splendour is a part of their excellence. We upon our feasts light up this whole capital city: we in our feasts invite all the world to partake them. Mr. Hastings feasts in the dark; Mr. Hastings feasts alone; Mr. Hastings feasts like a wild beast; he growls in the corner over the dying and the dead,

like the tigers of that country, who drag their prey into the jungles. Nobody knows of it, till he is brought into judgment for the flock he has destroyed. His is the entertainment of Tantalus; it is an entertainment from which the sun hid his light.

But was it an entertainment upon a visit? Was Mr. Hastings upon a visit? No; he was executing a commission for the company in a village in the neighbourhood of Moorshedabad, and by no means upon a visit to the nabob. On the contrary, he was upon something, that might be more properly called a *visitation:* he came as a heavy calamity, like a famine or a pestilence on a country; he came there to do the severest act in the world, as he himself expresses, to take the bread—literally the bread, from about a thousand of the nobles of the country, and to reduce them to a situation, which no man can hear of without shuddering. When you consider, that, while he was thus entertained himself, he was famishing fourteen hundred of the nobility and gentry of the country, you will not conceive it to be any extenuation of his crimes, that he was there, not upon a visit, but upon a duty the harshest, that could be executed, both to the persons, who executed, and the people, who suffered from it.

It is mentioned and supposed in the observations upon this case, though no circumstances relative to the person, or the nature of the visit, are stated, that this expense was something, which he might have charged to the company, and did not. It is first supposed by the learned counsel, who made the observation, that it was a public, allowed, and acknowledged thing; then, that he had not charged the company any thing for it. I have looked into that business: in the first place, I see no such custom; and if there was such a custom, there was the most abusive misemployment of it. I find that in that year there was paid from the company's cash account to the governour's travelling charges (and he had no other journey at that end of the year) thirty thousand rupees, which is about £.3,000; and when we consider that he was in the receipt of near £.30,000, besides the nuzzers, which amount to several thousand a year, and that he is allowed £.3,000 by the company for his travelling expenses;—is it right to charge upon the miserable people whom he was defrauding of their bread, £.16,000 for his entertainment?

I find, that there are also other great sums relative to the expenses of the committee of circuit, which he was upon. How much of them is applicable to him, I know not. I say, that the allowance of £.3,000 was noble and liberal; for it is not above a day or two's journey to Moorshedabad, and by his taking his road by Kissenagore, he could not be longer. He had a salary to live upon, and he must live somewhere; and he was actually paid £.3,000 for travelling charges for three months, which was at the rate of £.12,000 a year—a large, an abundant sum.

If you once admit, that a man for an entertainment shall take sixteen thousand pounds, there never will be any bribe, any corruption, that may not be justified; the corrupt man has nothing to do but to make a visit, and then that very moment he may receive any sum under the name of this entertainment; that moment his covenants are annulled, his bonds and obligations destroyed, the act of parliament repealed, and it is no longer bribery; it is no longer corruption, it is no longer peculation; it is nothing but thanks for obliging inquiries, and a compliment according to the mode of the country, by which he makes his fortune.

What hinders him from renewing that visit? If you support this distinction, you will teach the governour-general, instead of attending his business at the capital, to make journeys through the country, putting every great man of that country under the most ruinous contributions; and as this custom is in no manner confined to the governour-general, but extends, as it must upon that principle, to every servant of the company in any station whatever, then, if each of them were to receive an entertainment, I will venture to say, that the greatest ravage of an hostile army could not indeed destroy the country more entirely than the company's servants by such visits.

Your lordships will see, that there are grounds for suspicion, not supported with the same evidence, but with evidence of great probability, that there was another entertainment given at the expense of another lack of rupees; and there is also great probability, that Mr. Hastings received two lacks of rupees and Mr. Middleton another lack. The whole of the nabob's revenues would have been exhausted by these two men, if they had staid there a whole year, and they staid three months. Nothing will be secured from the company's servants, so long as they can find, under this name, or under pretence of any corrupt custom of the country, a vicious excuse for this corrupt practice. The excuse is worse than the thing itself. I leave it then with your judg-

ment to decide, whether you will or not (if this justification comes before you) establish a principle, which would put all Bengal in a worse situation than an hostile army could do, and ruin all the company's servants by sending them from their duty to go round robbing the whole country under the name of entertainments.

My lords, I have now done with this first part; namely, the presumption arising from his refusal to make any defence, on pretence that the charge brought against him might be referred to a court of justice, and from the non-performance of his promise to give satisfaction to his employers; and when that pretence was removed, still refusing to give that satisfaction, though suffering as he did under a load of infamy and obloquy, and though urged to give it by persons of the greatest character. I have stated this to your lordships as the strongest presumption of guilt, and that this presumption is strengthened by the very excuse, which he fabricated for a part of his bribes, when he knew, that the proof of them was irresistible, and that this excuse is a high aggravation of his guilt; that this excuse is not supported by law, that it is not supported by reason, that it does not stand with his covenant, but carries with it a manifest proof of corruption; and that it cannot be justified by any principle, custom, or usage whatever. My lords, I say I have done with the presumption arising from his conduct as it regarded the fact specifically charged against him, and with respect to the relation he stood in to the court of directors, and from the attempt he made to justify that conduct. I believe your lordships will think both one and the other strong presumptions of his criminality, and of his knowledge, that the act he was doing was criminal.

I have another fact to lay before your lordships, which affords a further presumption of his guilt, and which will show the mischievous consequences of it; and, I trust, your lordships will not blame me for going a little into it. Your lordships know we charge, that the appointment of such a woman as Munny Begum to the guardianship of the nabob, to the superintendency of the civil justice of the country, and to the representation of the whole government, was made for no other purpose, than that through this corrupt woman £.16,000 a year, the whole tattered remains of the nabob's grandeur, might be a prey to Mr. Hastings; it could be for no other. Now your lordships would imagine, that after this, knowing he was already grievously suspected, he would have abstained from giving any further ground for suspicion by a repetition of the same acts through the same person; as no other reason could be furnished for such acts, done directly contrary to the order of his superiours, but that he was actuated by the influence of bribery. Your lordships would imagine, that when this Munny Begum was removed upon a charge of corruption, Mr. Hastings would have left her quiet in tranquil obscurity, and that he would no longer have attempted to elevate her into a situation, which furnished against himself so much disgrace and obloquy, and concerning which he stood charged with a direct and positive act of bribery. Your lordships well know, that upon the deposition of that great magistrate, Mahomed Reza Khân, this woman was appointed to supply his place. The governour-general and council (the majority of them being then Sir John Clavering, Colonel Monson, and Mr. Francis) had made a provisional arrangement for the time, until they should be authorised to fill up the place in a proper manner. Soon after there came from Europe a letter, expressing the satisfaction which the court of directors had received in the acquittal of Mahomed Reza Khân, expressing a regard for his character, an high opinion of his abilities, and a great disposition to make him some recompense for his extreme suffering; and accordingly they ordered, that he should be again employed. Having no exact ideas of the state of employments in that country, they made a mistake in the specific employment, for which they named him; for being a Mahomedan, and the head of the Mahomedans in that country, he was named to an office, which must be held by a Gentoo. But the majority, I have just named, who never endeavoured by any base and delusive means to fly from their duty, or not to execute it at all, because they were desired to execute it in a way, in which they could not execute it, followed the spirit of the order; and finding, that Mahomed Reza Khân, before his imprisonment and trial, had been in possession of another employment, they followed the spirit of the instructions of the directors, and replaced him in that employment; by which means there was an end put to the government of Munny Begum; the country reverted to its natural state, and men of the first rank in the country were placed in the first situations in it. The seat of judicature was filled with wisdom, gravity, and learning, and Munny Begum sunk into that situation, into which a woman, who had been engaged in the practices

that she had been engaged in, naturally would sink at her time of life. Mr. Hastings resisted this appointment. He trifled with the company's orders on account of the letter of them, and endeavoured to disobey the spirit of them. However the majority overbore him; they put Mahomed Reza Khân into his former situation, and as a proof and seal to the honour and virtue of their character, there was not a breath of suspicion, that they had any corrupt motive for this conduct. They were odious to many of the India house here; they were odious to that corrupt influence, which had begun and was going on to ruin India. But in the face of all this odium, they gave the appointment to Mahomed Reza Khân, because the act contained in itself its own justification. Mr. Hastings made a violent protest against it, and resisted it to the best of his power, always in favour of Munny Begum, as your lordships will see. Mr. Hastings sent this protest to the directors; but the directors, as soon as the case came before them, acknowledged their errour, and praised the majority of the council, Sir John Clavering, Colonel Monson, and Mr. Francis, for the wise and honourable part they had taken upon the occasion, by obeying the spirit and not the letter; commended the act they had done; confirmed Mahomed Reza Khân in his place; and to prevent that great man from being any longer the sport of fortune, any longer the play of avarice, between corrupt governours and dancing girls, they gave him the pledged faith of the company, that he should remain in that office as long as his conduct deserved their protection; it was a good and an honourable tenure.

My lords, soon afterwards there happened two lamentable deaths, first of Colonel Monson, afterwards of General Clavering. Thus Mr. Hastings was set loose; there was an inspection and a watch upon his conduct, and no more. He was then just in the same situation, in which he had stood in 1772. What does he do? Even just what he did in 1772. He deposes Mahomed Reza Khân, notwithstanding the company's orders; notwithstanding their pledged faith; he turns him out, and makes a distribution of two lacks and an half of rupees, the salary of that great magistrate, in the manner I will now show your lordships. He made an arrangement consisting of three main parts; the first was with regard to the women, the next with regard to the magistracy, the last with regard to the officers of state of the household.

The first person, that occurred to Mr. Hastings, was Munny Begum, and he gave her, not out of that part of the nabob's allowance, which was to support the seraglio, but out of the allowance of this very magistrate, just as if such a thing had been done here out of the salary of a lord chancellour or a lord chief justice;—out of the two lacks and an half of rupees, that is, about twenty-four or twenty-five thousand pounds a year, he ordered an allowance to be made to Munny Begum of 72,000 rupees per annum, or £.7,200 a year;—for the nabob's own mother, whom he thrust as usual into a subordinate situation, he made an allowance of £.3,000;—to the Sudder-ul-Huk Khân, which is, translated into English, the lord chief justice, he allowed the same sum, that he did to the dancing girl, (which was very liberal in him, and I am rather astonished to find it) namely, £.7,200 a year. And, who do you think was the next public officer he appointed? It was the rajah Goerdass, the son of Nundcomar, and whose testimony he has attempted both before and since this occasion to weaken. To him, however, he gave an employment of £.6,000 a year, as if to make through the son some compensation to the manes of the father. And in this manner, he distributes with a wild and liberal profusion, between magistrates and dancing girls, the whole spoil of Mahomed Reza Khân, notwithstanding the company's direct and positive assurance given to him. Every thing was done at the same time, to put, as it was before, into the hands of this dancing girl, the miserable nabob's whole family; and that the fund for corruption might be large enough, he did not take the money for this dancing girl out of the nabob's separate revenue, of which he and the dancing girl had the private disposal between them. Now, upon what pretence did he do all this? The nabob had represented to Mr. Hastings, that he was now of age; that he was an independent sovereign prince; that being independent and sovereign in his situation, and being of full age, he had a right to manage his own concerns himself; and, therefore, he desired to be admitted to that management: and indeed, my lords, ostensibly, and supposing him to have been this independent prince, and that the company had no authority, or had never exercised any authority over him through Mr. Hastings, there might be a good deal said in favour of this request. But what was the real state of the case? The nabob was a puppet in the hands of Mr. Hastings and Munny Begum; and you will find upon producing the correspondence, that he confesses, that she was the ultimate object and end of this request.

I think, this correspondence, wherein a son is made to petition, in his own name, for the elevation of a dancing girl, his step-mother, above himself and every body else, will appear to your lordships such a curiosity as, I believe, is not to be found in the state correspondence of the whole world. The nabob begins thus:—"The excellency of that policy, by which her highness the begum (meaning Munny Begum,) (may her shadow be far extended) formerly during the time of her administration, transacted the affairs of the nizamut in the very best and most advantageous manner, was, by means of the delusions of enemies, disguised under the appearance of friends, hidden from me. Having lately seriously reflected on my own affairs, I am convinced, that it was the effect of maternal affection, was highly proper, and for my interest; and that except the said begum is again invested with the administration, the regulation and prosperity of this family, which is in fact her own, cannot be effected. For this cause, from the time of her suspension until now, I have passed my time, and do so still, in great trouble and uneasiness. As all affairs, and particularly the happiness and prosperity of this family, depend on your pleasure, I now trouble you, in hopes, that you likewise, concurring in this point, will be so kind as to write in fit and proper terms to her highness the begum, that she will always, as formerly, employ her authority in the administration of the nizamut and the affairs of this family."

This letter, my lords, was received upon the 23d of August; and your lordships may observe two things in it; first, that some way or other this nabob had been (as the fact was) made to express his desire of being released from his subjection to the Munny Begum; but that now he had got new lights, all the mists are gone; and he now finds, that Munny Begum is not only the fittest person to govern him, but the whole country. This young man, whose incapacity is stated, and never denied by Mr. Hastings, and by Lord Cornwallis, and by all the rest of the world, who know him, begins to be charmed with the excellency of the policy of Munny Begum. Such is his violent impatience, such the impossibility of his existing an hour but under the government of Munny Begum, that he writes again on the 25th of August, (he had really the impatience of a lover) and within five days afterwards writes again, so impatient, so anxious and jealous is this young man to be put under the government of an old dancing woman. He is afraid lest Mr. Hastings should imagine, that some sinister influence had prevailed upon him in so natural and proper a request. He says, "Knowing it for my interest and advantage, that the administration of the affairs of the nizamut should be restored to her highness the Munny Begum, I have already troubled you with my request that, regarding my situation with an eye of favour, you will approve of this measure. I am credibly informed, that some one of my enemies, from selfish views, has, for the purpose of oversetting this measure, written you, that the said begum procured from me by artifice the letter I wrote you on this subject. This causes me the greatest astonishment. Please to consider, that artifice and delusion are confined to cheats and impostors, and can never proceed from a person of such exalted rank, who is the head and patron of all the family of the deceased nabob, my father; and that to be deluded, being a proof of weakness and folly, can have no relation to me, except the inventor of this report considers me as void of understanding, and has represented me to the gentlemen as a blockhead and an idiot. God knows how harshly such expressions appear to me; but as the truth or falsehood has not yet been fully ascertained, I have therefore suspended my demand of satisfaction. Should it be true, be so kind as to inform me of it, that the person may be made to answer for it." My lords, here is a very proper demand; the nabob is astonished at the suspicion, that such a woman as Munny Begum, whose trade in youth had been delusion, should be capable of deluding any body. Astonishing it certainly was, that a woman, who had been a deluder in youth, should be suspected to be the same in old age; and that he, a young man, should be subject to her artifices;—"they must suspect me to be a great blockhead," he says, "if a man of my rank is to be deluded." There he forgot, that it is the unhappy privilege of great men to be cheated, to be deluded, much more than other persons: but he thought it so impossible, in the case of Munny Begum, that he says, "produce me the traitor, that could suppose it possible for me to be deluded, when I call for this woman as the governour of the country. I demand satisfaction." I rather wonder, that Mr. Hastings did not inform him who it was, that had reported so gross and improbable a tale, and deliver him up to the fury of the nabob.

Mr. Hastings is absolutely besieged by him; for he receives another letter upon the 3d of September. Here are four letters following one another quick as post expresses,

with horns sounding before them. Oh, I die, I perish, I sink, if Munny Begum is not put into the government of the country. "I, therefore, desire to have her put into the government of the country; and that you will not keep me longer in this painful suspense, but will be kindly pleased to write immediately to the Munny Begum, that she take on herself the administration of the affairs of the nizamut, which is in fact, her own family, without the interference of any other person whatever; by this you will give me complete satisfaction." Here is a correspondence more like an amorous than a state correspondence. What is this man so eager about, what in such a rage about, that he cannot endure the smallest delay of the post with common patience—why, lest this old woman (who is not his mother, and with whom he had no other tie of blood) should not be made mistress of himself and the whole country! However, in a very few months afterwards he himself is appointed by Mr. Hastings to the government; and you may easily judge by the preceding letters, who was to govern. It would be an affront to your lordships' judgment, to attempt to prove, who was to govern, after he had desired to put the whole government of affairs into the hands of Munny Begum. Now Munny Begum having obtained this salary, and being invested with this authority, and made in effect the total and entire governour of the country, as I have proved by the nabob's letters; let us see the consequences of it; and, then, I desire to know, whether your lordships can believe, that in all this haste, which, in fact, is Mr. Hastings's haste and impatience; (for we shall prove, that the nabob never did or could take a step but by his immediate orders and directions;) whether your lordships can believe, that Mr. Hastings would incur all the odium attending such transactions, unless he had some corrupt consideration.

My lords, very soon after these appointments were made, consisting of Munny Begum at the head of the affairs, the lord chief justice under her, and under her direction, and rajah Goordass as steward of the household; the first thing we hear is, just what your lordships expect to hear upon such a case, that this unfortunate chief justice, who was a man undoubtedly of but a poor, low disposition, but I believe a perfectly honest, perfectly well intentioned man, found it absolutely impossible for him to execute his office under the direction of Munny Begum; and, accordingly, in the month of September following, he sends a complaint to Mr. Hastings—"That certain bad men had gained an ascendency over the nabob's temper, by whose instigation he acts." After complaining of the slights he receives from the nabob, he adds, "thus they cause the nabob to treat me, sometimes with indignity, at others with kindness, just as they think proper to advise him: their view is, that by compelling me to displeasure at such unworthy treatment, they may force me either to relinquish my station, or to join with them, and act by their advice, and appoint creatures of their recommendation to the different offices, from which they might draw profit to themselves." This is followed by another letter, in which he shows who those corrupt men were, that had gained the ascendency over the nabob's temper—namely, the eunuchs of Munny Begum; one of them her direct instrument in bribery with Mr. Hastings. What you would expect from such a state of things accordingly happened. Every thing in the course of justice was confounded; all official responsibility destroyed; and nothing but a scene of forgery, peculation, and knavery of every kind and description prevailed through the country, and totally disturbed all order and justice in it. He says, "The begum's ministers, before my arrival, with the advice of their counsellors, caused the nabob to sign a receipt, in consequence of which they received at two different times near 50,000 rupees, in the name of the officers of the adawlet, foujdarry, &c. from the company's circar; and having drawn up an account current in the manner they wished, they got the nabob to sign it, and then sent it to me." In the same letter he asserts, "that these people have the nabob entirely in their power."

My lords, you see here Mr. Hastings enabling the corrupt eunuchs of this wicked old woman to draw upon the company's treasury at their pleasure, under forged papers of the nabob, for just such moneys as they please, under the name and pretence of giving it to the officers of justice, but which they distribute among themselves as they think fit. This complaint was soon followed by another, and they furnish, first, the strongest presumptive proof of the corrupt motives of Mr. Hastings: and secondly, they show the horrible mischievous effects of his conduct upon the country.

In consequence of the first complaint, Mr. Hastings directs this independent nabob not to concern himself any longer with the foujdarry. The nabob, who had before declared, that the superintendence of all the offices

belonged to him, and was to be executed by himself, or under his orders, instantly obeys Mr. Hastings, and declares, he will not interfere in the business of the courts any more. Your lordships will observe further, that the complaint is not against the nabob, but against the creatures and the menial servants of Munny Begum, and yet it is the nabob he forbids to interfere in this business; of the others he takes no notice; and this is a strong proof of the corrupt dealings of Mr. Hastings with this woman. When the whole country was fallen into confusion under the administration of this woman, and under her corrupt ministers, men base-born and employed in the basest offices (the men of the household train of the women of rank in that country are of that description) he writes to the nabob again, and himself confesses the mischiefs, that had arisen from his corrupt arrangements.

"At your excellency's request, I sent Sudder-ul-Huk Khân to take on him the administration of the affairs of the adawlet and phousdarry, and hoped by that means not only to have given satisfaction to your excellency; but that through his abilities and experience these affairs would have been conducted in such manner as to have secured the peace of the country, and the happiness of the people; and it is with the greatest concern I learn, that this measure is so far from being attended with the expected advantages, that the affairs both of the phousdarry and adawlet are in the greatest confusion imaginable, and daily robberies and murders are perpetrated throughout the country. This is evidently owing to the want of a proper authority in the person appointed to superintend them. I therefore addressed your excellency on the importance and delicacy of the affairs in question, and of the necessity of lodging full power in the hands of the person chosen to administer them. In reply to which your excellency expressed sentiments coincident with mine. Notwithstanding which, your dependants and people, actuated by selfish and avaricious views, have by their interference so impeded the business, as to throw the whole country into a state of confusion, from which nothing can retrieve it but an unlimited power lodged in the hands of the superintendent. I therefore request, that your excellency will give the strictest injunctions to all your dependants not to interfere in any manner with any matter relative to the affairs of the adawlet and phousdarry; and that you will yourself relinquish all interference therein, and leave them entirely to the management of Sudder-ul-Huk Khân. This is absolutely necessary to restore the country to a state of tranquillity."

My lords, what evidence do we produce to your lordships of the consequences of Mr. Hastings's corrupt measures?—his own. He here gives you the state, into which the country was thrown by the criminal interference of the wicked woman, whom he had established in power, totally superseding the regular judicial authority of the country, and throwing every thing into confusion. As usual there is such irregularity in his conduct, and his crimes are so multiplied, that all the contrivances of ingenuity are unable to cover them: now and then he comes and betrays himself; and here he confesses to you his own weakness, and the effects of his own corruption;—he had appointed Munny Begum to this office of power, he dare not say a word to her upon her abuse of it, but he lays the whole upon the nabob. When the chief justice complains, that these crimes were the consequence of Munny Begum's interference, and were committed by her creatures; why did he not say to the nabob, the begum must not interfere; the begum's eunuchs must not interfere? He dared not; because that woman had concealed all the bribes but one from public notice to gratify him; she and Yatibar-Ali-Khân, her minister, who had the principal share in this destruction of justice, and perversion of all the principal functions of government, had it in their power to discover the whole. Mr. Hastings was obliged, in consequence of that concealment, to support her and to support him. Every evil principle was at work. He bought a mercenary silence to pay the same back to them. It was a wicked silence, the concealment of their common guilt. There was at once a corrupt gratitude operating mutually by a corrupt influence on both; and a corrupt fear influencing the mind of Mr. Hastings, which did not permit him to put an end to this scene of disorder and confusion, bought at the expense of £24,000 a year to the company. You will hereafter see what use he makes of the evidence of Yatibar-Ali-Khân, and of this woman, for concealing their guilt.

Your lordships will observe, that the virtuous majority, whose reign was but short, and two of whom died of grief and vexation under the impediments which they met with from the corruptions and oppositions of Mr. Hastings (their indirect murderer; for it is well known to the world, that their hearts were thus broken,) put their conduct out of all suspicion, for they ordered an exact account to be kept by Mahomed Reza Khân; though, certainly, if

any person in the country could be trusted, he, upon his character, might; but they did not trust him, because they knew the company did not suffer them to trust any man: they ordered an exact account to be kept by him of the nabob's expenses, which finally must be the company's expenses; they ordered the account to be sent down yearly to be controulled, if necessary, whilst the means of controul existed. What was Mr. Hastings's conduct? He did not give the persons, whom he appointed, any order to produce any account, though their character and circumstances were such as made an account ten thousand times more necessary from them than from those, from whom it had been in former times by the company strictly exacted. So that his not ordering any account to be given of the money, that was to be expended, leaves no doubt, that the appointment of Munny Begum, was in pursuance of his old system of bribery, and that he maintained her in office to the subversion of public justice, for the purpose of robbing, and of continuing in the practice of robbing, the country.

But though this continued longer than was for the good of the country, yet it did not continue absolutely and relatively long; because the court of directors, as soon as they heard of this iniquitous appointment, which glared upon them in all the light of its infamy, immediately wrote the strongest, the most decided, and the most peremptory censure upon him, attributing his acts, every one of them, to the same causes, to which I attribute them. As a proof, that the court of directors saw the thing in the very light, in which I represent it to your lordships, and indeed in which every one must see it, you will find, that they reprobate all his idle excuses; that they reprobate all the actors in the scene; that they consider every thing to have been done, not by the nabob, but by himself; that the object of the appointment of Munny Begum was *money*, and that the consequence of that appointment was the robbery of the nabob's treasury. "We by no means approve your late proceedings, on the application of the nabob Mobareck ul Dowlah, for the removal of the naib soubahdar. The requisition of Mobareck ul Dowlah was improper and unfriendly; because he must have known, that the late appointment of Mahomed Reza Khân to the office of naib soubahdar had been marked with the company's special approbation; and that the court of directors had assured him of their favour, so long as a firm attachment to the company's interest, and a proper discharge of the duties of his station, should render him worthy of their protection. We therefore repeat our declaration, that to require the dismission of a prime minister, thus circumstanced, without producing the smallest proof of his infidelity to the company, or venturing to charge him with one instance of maladministration in the discharge of his public duty, was improper, and inconsistent with the friendship subsisting between the nabob of Bengal and the company." And further on, they say—"The nabob having intimated, that he had repeatedly stated the trouble and uneasiness, which he had suffered from the naibship of the nizamut being vested in Mahomed Reza Khân, we observe one of the members of your board desired the nabob's repeated letters on the subject might be read, but this reasonable request was overruled, on a plea of saving the board's time, which we can by no means admit as a sufficient objection. The nabob's letters of the 25th and 30th August, of the 3d September and 17th November, leave us no doubt of the true design of this extraordinary business being to bring forward Munny Begum, and again to invest her with improper power and influence, notwithstanding our former declaration, that so great a part of the nabob's allowance had been embezzled, or misapplied under her superintendence."

At present, I do not think it necessary, because it would be doing more than enough; it would be slaying the slain, to show your lordships what Mr. Hastings's motives were in acting against the sense of the East-India Company, appointed by an act of parliament to controul him: that he did it, for a corrupt purpose; that all his pretences were false and fraudulent, and that he had his own corrupt views in the whole of the proceeding. But in the statement, which I have given of this matter, I beg your lordships to observe the instruments, with which Mr. Hastings acts. The great men of that country, and particularly the soubahdar himself, the nabob, are, and is in so equivocal a situation, that it afforded him two bolting holes, by which he is enabled to resist the authority of the company, and exercise an arbitrary authority of his own; for, though the nabob has the titles of high sovereignty, he is the lowest of all dependants: he appears to be the master of the country: he is a pensioner of the company's government.

When Mr. Hastings wants him to obey and answer his corrupt purposes, he finds him in the character of a pensioner: when he wants his authority to support him in opposition to the authority of the company, immediately he

invests him with high sovereign powers; and he dare not execute the orders of the company for fear of doing some act, that will make him odious in the eyes of God and man. We see how he appointed all officers for him, and forbade his interference in all affairs. When the company see the impropriety and the guilt of these acts, and order him to rescind them, and appoint again Mahomed Reza Khân, he declares he will not: that he cannot do it in justice, but that he will consent to send him the order of the company, but without backing it with any order of the board; which, supposing even there had been no private communication, was, in other words, commanding him to disobey it. So this poor man, who a short time before was at the feet of Mr. Hastings, whom Mr. Hastings declared to be a pageant, and swore in a court of justice that he was but a pageant, and followed that affidavit with long declarations in council, that he was a pageant in sovereignty, and ought in policy ever to be held out as such: this man he sets up in opposition to the company, and refuses to appoint Mahomed Reza Khân to the office, which was guarantied to him by the express faith of the company, pledged to his support. Will any man tell me, that this resistance, under such base, though plausible, pretences, could spring from any other cause, than a resolution of persisting systematically in his course of corruption and bribery, through Munny Begum?

But there is another circumstance, that puts this in a stronger light: he opposes the nabob's mock authority to the authority of the company; and leaves Mahomed Reza Khân unemployed, because, as he says, he cannot in justice execute orders from the company (though they are his undoubted masters,) contrary to the rights of the nabob. You see, what the rights of the nabob were: the rights of the nabob were to be governed by Munny Begum, and her scandalous ministers. But, however, we now see him exalted to be an independent sovereign—he defies the company at the head of their armies and their treasury—that name, that makes all India shake, was defied by one of its pensioners. My lords, human greatness is an unstable thing. This man, so suddenly exalted, was as soon depressed; and the manner of his depression is as curious as that of his exaltation by Mr. Hastings; and will tend to show you the man most clearly. Mr. Francis, whose conduct all along was directed by no other principles than those, which were in conformity with the plan adopted by himself and his virtuous colleagues; namely, an entire obedience to the laws of his country, and who constantly had opposed M Hastings upon principles of honour, and pri ciples of obedience to the authority of th company, under which he acted, had neve contended for any one thing, in any way, o in any instance, but obedience to them; an had constantly asserted, that Mahomed Rez Khân ought to be put into employment. Mr Hastings as constantly opposed him; and the reason he gave for it was, that it was against the direct rights of the nabob; and that they were rights so sacred, that they could not be infringed even by the sovereign authority of the company ordering him to do it. He had so great an aversion to the least subtraction of the nabob's right, that though expressly commanded by the court of directors, he would not suffer Mahomed Reza Khân to be invested with his office under the company's authority. The nabob was too sovereign—too supreme for him to do it: but such is the fate of human grandeur, that a whimsical event reduced the nabob to his state of pageant again, and made him the mere subject of—you will see whom. Mr. Hastings found he was so embarrassed by his disobedience to the spirit of the orders of the company, and by the various wild projects he had formed, as to make it necessary for him, even though he had a majority in the council, to gain over at any price Mr. Francis. Mr. Francis, frightened by the same miserable situation of affairs, (for this happened at a most dangerous period—the height of the Mahratta war,) was willing likewise to give up his opposition to Mr. Hastings, to suspend the execution of many rightful things, and to concede them to the public necessity. Accordingly, he agreed to terms with Mr. Hastings. But what was the price of that concession? Any base purpose, any desertion of public duty? No; all that he desired of Mr. Hastings, was, that he should obey the orders of the company; and among other acts of the obedience required was this, that Mahomed Reza Khân should be put into his office.

You have heard, how Mr. Hastings opposed the order of the company, and on what account he opposed it. On the first of September he sent an order to the nabob, now become his subject, to give up this office to Mahomed Reza Khân; an act, which he had before represented as a dethroning of the nabob. The order went on the first of September, and on the third, this great and mighty prince, whom all earth could not move from the assertion of his rights, gives them all up; and Mahomed Reza Khân is invested with them. So there all his pretences were gone. It is plain, that

what had been done before, was for Munny Begum; and that what he now gave up, was from necessity: and it shows, that the nabob was the meanest of his servants; for in truth he ate his daily bread out of the hands of Mr. Hastings through Munny Begum.

Mahomed Reza Khân was now invested again with his office; but, such was the treachery of Mr. Hastings, that though he wrote to the nabob, that this was done in consequence of the orders of the company, he did clandestinely, according to his usual mode, assure the nabob, that Mahomed Reza Khân should not hold the place longer than till he heard from England. He then wrote him another letter, that he should hold it no longer than while he submitted to his present necessity; thus giving up to his colleague, what he refused to the company; and engaged privately, that he would dismiss Mahomed Reza Khân again. And, accordingly, the moment he thought Mr. Francis was not in a condition to give him trouble any longer, that moment he again turned out Mahomed Reza Khân from that general superintendence of affairs, which the company gave him; and deposed him as a minister, leaving him only a very confined authority as a magistrate. All these changes, no less than four great revolutions, if I may so call them, were made by Mr. Hastings for his own corrupt purposes. This is the manner, in which Mr. Hastings has played with the most sacred objects, that man ever had a dealing with; with the government—with the justice—with the order—with the dignity—with the nobility of a great country: he played with them to satisfy his own wicked and corrupt purposes through the basest instrument.

Now, my lords, I have done with these presumptions of corruption with Munny Begum; and have shown, that it is not a slight crime, but that it is attended with a breach of public faith; with a breach of his orders—with a breach of the whole English government, and the destruction of the native government—of the police—the order—the safety—the security—and the justice of the country: and that all these are much concerned in this cause. Therefore the Commons stand before the face of the world, and say, we have brought a cause—a great cause—a cause worthy the Commons of England to prosecute, and worthy the lords to judge and determine upon.

I have now nothing further to state, than what the consequences are of Mr. Hastings taking bribes; that Mr. Hastings's taking of bribes is not only his own corruption, but the incurable corruption of the whole service. I will show, first, that he was named in 1773, to put an end to that corruption. I will show, that he did not: that he, knowingly and willingly, connived at it; and that that connivance was the principal cause of all the disorders, that have hitherto prevailed in that country. I will show you, that he positively refused to obey the company's order to inquire into and to correct the corruptions, that prevailed in that country. Next, that he established an avowed system of connivance, in order to gain over every thing, that was corrupt in the country. And that, lastly, to secure it, he gave up all the prosecutions; and enervated, and took away, the sole arm left to the company for the assertion of authority, and the preservation of good morals and purity in their service.

My lords, here is a letter in the year 1773, in which the court of directors had, upon his own representation, approved some part of his conduct; he is charmed with their approbation; he promises the greatest things: but I believe your lordships will see from the manner, in which he proceeds at that very instant, that a more deliberate system, for not only being corrupt himself, but supporting corruption in others, never was exhibited in any public paper. "While I indulge the pleasure, which I receive from the past successes of my endeavours, I own I cannot refrain from looking back with a mixture of anxiety on the omissions, by which I am sensible I may since have hazarded the diminution of your esteem. All my letters, addressed to your honourable court, and to the secret committee, repeat the strongest promises of prosecuting the inquiries into the conduct of your servants, which you had been pleased to commit particularly to my charge. You will readily perceive, that I must have been sincere in those declarations, since it would have argued great indiscretion to have made them, had I foreseen my inability to perform them. I find myself now under the disagreeable necessity of avowing that inability; at the same time I will boldly take upon me to affirm, that on whomsoever you might have delegated that charge, and by whatever powers it might have been accompanied, it would have been sufficient to occupy the entire attention of those, who were intrusted with it; and, even with all the aids of leisure and authority, would have proved ineffectual. I dare appeal to the public records, to the testimony of those, who have opportunities of knowing me, and even to the detail, which the public voice can report of the past acts of this government, that my time has been neither idly nor uselessly employed: yet such

are the cares and embarrassments of this various state, that although much may be done, much more, even in matters of moment, must necessarily remain neglected. To select from the miscellaneous heap, which each day's exigencies present to our choice, those points, on which the general welfare of your affairs most essentially depends; to provide expedients for future advantages, and guard against probable evils, are all, that your administration can faithfully promise to perform for your service with their united labours most diligently exerted. They cannot look back without sacrificing the objects of their immediate duty, which are those of your interests, to endless researches, which can produce no real good; and may expose your affairs to all the ruinous consequences of personal malevolence, both here and at home."

My lords, this is the first man, I believe, that ever took credit for his sincerity from his breach of his promises—"I could not," he says, "have made these promises, if I had not thought, that I could perform them." Now, I find I cannot perform them, and you have in that non-performance, and in that profession, a security for my sincerity when I promised them. Upon this principle, any man, who makes a promise, has nothing to do afterwards, but to say, that he finds himself (without assigning any particular cause for it) unable to perform it; not only to justify himself for his non-performance, but to justify himself, and claim credit for sincerity in his original profession. The charge was given him specially, and he promised obedience, over and over, upon the spot, and in the country, in which he was no novice, for he had been bred in it: it was his native country in one sense, it was the place of his renewed nativity and regeneration. Yet, this very man, as if he was a novice in it, now says, "I promised you what I now find I cannot perform." Nay, what is worse, he declares, no man could perform it, if he gave up his whole time to it: and, lastly, he says, that the inquiry into these corruptions, even if you succeeded in it, would do more harm than good. Now, was there ever an instance of a man so basely deserting a duty, and giving so base a reason for it? His duty was to put an end to corruption in every channel of government.—It cannot be done. Why? because it would expose our affairs to malignity and enmity; and end, perhaps, to our disadvantage. Not only will he connive himself, but he advises the company to do it. For fear of what? for fear, that their service was so abandoned and corrupt, that the display of the evil would tend more to their disreputation, than all their attempts to reform it would tend to their service.

Mr. Hastings should naturally have imagined, that the law was a resource in this desperate case of bribery: he tells you, that in "that charge of oppression, though they were supported by the cries of the people, and the most authentic representations, it is yet impossible in most cases to obtain legal proofs." Here is a system of total despair upon the business, which, I hope, and believe, is not a desperate one, and has not proved a desperate one, whenever a rational attempt has been made to pursue it. Here you find him corrupt, and you find in consequence of that corruption, that he screens the whole body of corruption in India, and states an absolute despair of any possibility, by any art or address, of putting an end to it. Nay, he tells you, that if corruption did not exist, if it was not connived at, that the India company could not exist: whether that be a truth or not I cannot tell; but this I know, that it is the most horrible picture, that ever was made of any country. It might be said, that there were excuses for omissions, sins of omission he calls them. I will show, that they were systematic, that Mr. Hastings did uniformly profess, that he would connive at abuses, and contend, that abuses ought to be connived at. When the whole mystery of the iniquity, in which he himself was deeply concerned, came to light; when it appeared, that all the company's orders were contravened; that contracts were given directly contrary to their orders, and upon principles subversive of their government, leading to all manner of oppression and ruin to the country; what was Mr. Hastings's answer? "I must here remark, that the majority * * * * * * I had not the power of establishing it."* Then he goes on, and states other cases of corruption, at every one of which he winks. Here he states another reason for his connivance: "Suppose again," for he puts another supposition, and these suppositions are not hypotheses laid down for argument, but real facts then existing before the council examining into grievances; "Suppose again, that any person had benefited himself * * * * * unprofitable discussion."†

Here is a direct avowal of his refusing to examine into the conduct of persons in the council, even in the highest departments of government, and the best paid, for fear he should dissatisfy them, and should lose their

* Document wanting. † Document wanting.

votes, by discovering those peculations and corruptions, though he perfectly knew them. Was there ever, since the world began, any man, who would dare to avow such sentiments, until driven to the wall? If he could show, that he himself abhorred bribes, and kept at a distance from them; then, he might say, I connive at the bribes of others; but when he acknowledges, that he takes bribes, how can you doubt, that he buys a corrupt confederacy, and puts an end to any hope through him of reformation of the abuses at Bengal? But your lordships will see, that he not only connived at abuse, but patronized it, and supported it for his own political purposes, since he here confesses, that if inquiry into it created him ill humour, and produced him an opposition in council, he sacrificed it to the power of the company, and the constitution of their government. Did he so? The company ordered him to prosecute those people, and their constitution required, that they should be prosecuted. No, says Mr. Hastings, the conniving at it procures a majority of votes. The very thing, that he bought, was not worth half the price he paid for it. He was sent to reform corruptions, and in order that he might reform corruptions, he winked at, countenanced and patronized them, to get a majority of votes; and what was, in fact, a sacrifice to his own interest, ambition, and corruption, he calls a sacrifice to the company. He puts then this alternative, either give every thing into my hand, suffer me to go on, and have no controul, or else I wink at every species of corruption. It is a remarkable and stupendous thing, that when all the world was alarmed at the disorders of the company; when that alarm occasioned his being sent out; and when in consequence of that alarm, parliament suspended the constitution of the company, and appointed another government, Mr. Hastings should tell that company, that parliament had done wrong, and that the person put at the head of that government was to wink at those abuses. Nay, what is more, not only does Mr. Hastings declare, upon general principles, that it was impossible to pursue all the delinquencies of India; and that, if possible to pursue them, mischief would happen from it; but your lordships will observe, that Mr. Hastings, in this business, during the whole period of the administration of that body, which was sent out to inquire into and reform the corruptions of India, did not call one person to an account; nor, except Mr. Hastings, this day, has any one been called to an account, or punished for delinquency. Whether he will be punished or no, time will show. I have no doubt of your lordships' justice, and of the goodness of our cause.

The table of the House of Commons groaned under complaints of the evils growing in India under this systematic connivance of Mr. Hastings. The directors had set on foot prosecutions, to be conducted God knows how; but such as they were, they were their only remedy; and they began to consider at last, that these prosecutions had taken a long oblivious nap of many years; and, at last, knowing, that they were likely in the year 1782 to be called to a strict account about their own conduct, the court of directors began to rouse themselves, and they write thus: "Having in several of our letters to you very attentively perused all the proceedings referred to in these paragraphs, relative to the various forgeries on the company's treasuries, we lament exceedingly, that the parties should have been so long in confinement without being brought to trial."

Here, my lords, after justice had been asleep awhile, it revived. They directed two things; first, that those suits should be pursued; but whether pursued or not, that an account of the state of them should be given, that they might give orders concerning them.

Your lordships see the orders of the company. Did they not want to pursue and to revive those dormant prosecutions? they want to have a state of them, that they may know how to direct the future conduct of them with more effect and vigour than they had yet been pursued with. You will naturally imagine, that Mr. Hastings did not obey their orders, or obeyed them languidly: no, he took another part. He says, "having attentively read and weighed the arguments * * * * * for withdrawing them."* Thus he begins with the general principle of connivance; he directly avows he does it for a political purpose; and when the company directs, he shall proceed in the suits; instead of deferring to their judgment, he takes the judgment on himself, and says, theirs is untenable; he directly discharges the prosecutions of the company; supersedes the authority of his masters, and gives a general release to all the persons, who were still suffering by the feeble footsteps of justice in that country. He gave them an act of indemnity, and that was the last of his acts.

Now when I show the consequence of his bribery, the presumptions, that arise from his own bribes, his attention to secure others from the punishment of theirs; and, when ordered

* Document wanting.

to carry on a suit, his discharging it: when we see all this, can we avoid judging and forming our opinions upon two grand points: first, that no man would proceed in that universal patronage of guilt, unless he was guilty himself: next, that by a universal connivance for fourteen years, he is himself the cause and main spring of all the evils, calamities, extortion, and bribery, that have prevailed and ravaged that county for so long a time? There is indeed no doubt either of his guilt, or of the consequences of it, by which he has extinguished the last expiring hope and glimpse, that remained, of procuring a remedy for India of the evils that exist in it.

I would mention, that as a sort of postscript, when he could no longer put the government into the hands of that infamous woman, Munny Begum, he sent an amorous sentimental letter to the company, describing her miserable situation, and advising the company to give her a pension of 72,000 rupees a year, to maintain her. He describes her situation in such a moving way, as must melt every heart. He supposes her to be reduced to want by the cruel orders of the company, who retain from her money, which they were never obliged to give her. This representation, which he makes with as much fairness, as he represents himself to be in a state of the most miserable poverty and distress, he alone made to the company, because his colleagues would not countenance him in it; and, we find, upon looking over lord Cornwallis's last examination into the whole state of this unhappy family, that this woman was able to lend to Mobareck ul Dowlah twenty thousand pounds. Mr. Hastings, however, could not avoid making this representation; because he knew, that if he quitted the country without securing that woman, by giving her a hope, that she could procure by his credit here that money, which by his authority he had before procured for her, she might then make a discovery of all the corruption, that had been carried on between them; and therefore he squanders away the treasures of the company, in order to secure himself from any such detection, and to procure for himself rozanammas, and all those fine things. He knew, that Munny Begum, that the whole seraglio, that all the country, whom he had put under the dominion of Sir John D'Oyley, that all those people might have made a discovery of all his corrupt proceedings; he therefore gets the nabob to appoint Sir John D'Oyley his agent here, with a view of stopping his mouth, and by the hope of another £.160,000 a year to prevent his giving an account of the dilapidation and robbery, that was made of the £.160,000 which had been left him.

I have now finished what I proposed to say relative to his great fund of bribery, in the first instance of it, namely, the administration of justice in the country.

There is another system of bribery, which I shall state before my friends produce the evidence. He put up all the great offices of the country to sale; he makes use of the trust he had of the revenues in order to destroy the whole system of those revenues, and to bind them and make them subservient to his system of bribery; and this will make it necessary for your lordships to couple the consideration of the charge of the revenues, in some instances, with that of bribery.

The next day your lordships meet (when I hope I shall not detain you so long) I mean to open the second stage of his bribery, the period of discovery; for the first stage was the period of concealment. When he found his bribes could no longer be concealed, he next took upon him to discover them himself, and to take merit from them.

When I shall have opened the second scene of his peculation, and his new principles of it, when you see him either treading in old corruptions, and excelling the examples he imitated, or exhibiting new ones of his own, in which of the two his conduct is the most iniquitous, and attended with the most evil to the company, I must leave your lordships to judge.

TRIAL.—TUESDAY, MAY 5th, 1789.

(MR. BURKE.)

MY LORDS,—Agreeably to your lordships' proclamation, which I have just heard, and the duty enjoined me by the House of Commons, I come forward to make good their charge of high crimes and misdemeanours, against Warren Hastings, Esquire, late governour-general of Bengal, and now a prisoner at your bar. My lords, since I had last the honour of standing in this place before your lordships, an event has happened, upon which it is difficult to speak, and impossible to be silent. My lords, I have been disavowed by those, who sent me here to represent them. My lords, I have been disavowed in a material part of that engagement, which I had pledged myself to this House to perform. My lords, that disavowal has been followed by a censure; and yet, my lords, so censured and so disavowed, and by such an authority, I am sent here again, to this the place

of my offence, under the same commission, by the same authority, to make good the same charge, against the same delinquent. My lords, the situation is new and awful: the situation is such as, I believe, and I am sure, has nothing like it on the records of parliament, nor probably in the history of mankind. My lords, it is not only new and singular, but, I believe, to many persons, who do not look into the true interiour nature of affairs, it may appear, that it would be to me as mortifying as it is unprecedented. But, my lords, I have in this situation, and upon the consideration of all the circumstances, something more to feed my mind with, than mere consolation, because, my lords, I look upon the whole of these circumstances, considered together, as the strongest, the most decisive, and the least equivocal proof which the Commons of Great Britain can give of their sincerity, and their zeal in this prosecution. My lords, is it from a mistaken tenderness, or a blind partiality to me, that, thus censured, they have sent me to this place? No, my lords, it is because they feel, and recognize in their own breasts, that active principle of justice, that zeal for the relief of the people of India, that zeal for the honour of Great Britain, which characterizes me and my excellent associates; that, in spite of any defects in consequence of that zeal, which they applaud, and while they censure its mistakes, and, because they censure its mistakes, do but more applaud, they have sent me to this place instructed, but not dismayed, to pursue this prosecution against Warren Hastings, Esquire. Your lordships will therefore be pleased to consider this, as I consider it, not as a thing honourable to me, in the first place, but as honourable to the Commons of Great Britain, in whose honour the national glory is deeply concerned; and I shall suffer myself with pleasure to be sacrificed perhaps in what is dearer to me than my life, my reputation, rather than let it be supposed, that the Commons should for one moment have faltered in their duty. I, my lords, on the one hand, feeling myself supported and encouraged, feeling protection and countenance from this admonition and warning, which has been given to me, will show myself, on the other hand, not unworthy so great and distinguished a mark of the favour of the Commons, a mark of favour, not the consequence of flattery, but of opinion. I shall feel animated and encouraged by so noble a reward, as I shall always consider the confidence of the Commons to be; the only reward, but a rich reward, which I have received, for the toils and labours of a long life.

The Commons then thus vindicated, and myself thus encouraged, I shall proceed to make good the charge, in which the honour of the Commons, that is the national honour, is so deeply concerned. For, my lords, if any circumstance of weakness, if any feebleness of nerve, if any yielding to weak and popular opinions and delusions were to shake us, consider what the situation of this country would be. This prosecution, if weakly conceived, ill digested, or intemperately pursued, ought never to have been brought to your lordships' bar: but being brought to your lordships bar, the nation is committed to it, and the least appearance of uncertainty in our minds would disgrace us for ever. *Esto perpetua* has been said. To the glory of this nation, much more be it said, *esto perpetua*; and I will say, that as we have raised and exhibited a theatre of justice, which has excited the admiration of all Europe, there would be a sort of lustre in our infamy, and a splendour in the disgrace, that we shall bring upon ourselves, if we should, just at that moment, turn that theatre of our glory into a spectacle of dishonour beyond what has ever happened to any country of the world.

The Commons of Great Britain, whilst willing to keep a strong and firm hand over all those, who represent them in any business, do, at the same time, encourage them in the prosecution of it, by allowing them a just discretion and latitude wherever their own orders have not marked a distinction. I shall therefore go on with the more cheerful confidence, not only for the reasons that I have stated, but for another and material reason. I know, and am satisfied, that, in the nobleness of your judgment, you will always make a distinction between the person, that gives the order, and the organ, that is to execute it. The House of Commons know no such thing as indiscretion, imprudence, or impropriety: it is otherwise with their instruments. Your lordships very well know, that if you hear any thing, that shall appear to you to be regular, apt to bring forward the charge, just, prudent, cogent, you are to give it to the Commons of Great Britain in parliament assembled; if you should hear from me (and it must be from me alone, and not from any other member of the committee) any thing, that is unworthy of that situation, that comes feeble, weak, indigested, or ill prepared, you are to attribute that to the instrument. Your lordships' judgment would do this without my saying it; but whilst I claim it on the part of the Commons for their dignity, I claim for myself the necessary in-

dulgence, that must be given to all weakness. Your lordships, then, will impute it, where you would have imputed it without my desire. It is a distinction you would naturally have made, and the rather, because what is alleged by us at the bar is not the ground, upon which you are to give judgment. If not only I, but the whole body of managers, had made use of any such expressions as I made use of, even if the Commons of Great Britain in parliament assembled, if the collective body of parliament, if the voice of Europe, had used them; if we had spoken with the tongues of men and angels, you, in the seat of judicature, are not to regard what we say, but what we prove; you are to consider, whether the charge is well substantiated, and proof brought out, by legal inference and argument. You know, and I am sure the habits of judging, which your lordships have acquired by sitting in judgment, must better inform you than any other men, that the duties of life, in order to be well performed, must be methodized, separated, arranged, and harmonized, in such a manner, that they shall not clash with one another; but each have a department, assigned and separated to itself. My lords, in that manner it is, that we the prosecutors have nothing to do with the principles, which are to guide the judgment: that we have nothing to do with the defence of the prisoner. Your lordships well know, that, when we come before you, you hear a party; that, when the accused come before, you hear a party: that it is for you to doubt and wait till you come to the close, before you decide: that it is for us, the prosecutors, to have decided before we came here. To act as prosecutors, we ought to have no doubt, or hesitation, nothing trembling or quivering in our minds upon the occasion. We ought to be fully convinced of guilt, before we come to you. It is then our business to bring forward the proofs, to enforce them with all the clearness, illustration, example, that we can bring forward: that we are to show the circumstances, that can aggravate the guilt: that we are to go further, show the mischievous consequences and tendency of those crimes to society; and that we are, if able so to do, to arouse and awaken in the minds of all, that hear us, those generous and noble sympathies, which Providence has planted in the breasts of all men, to be the true guardians of the common rights of humanity. Your lordships know, that this is the duty of the prosecutors, and that, therefore, we are not to consider the defence of the party, which is wisely and properly left to himself; but we are to press the accusation with all the energy of which it is capable, and to come with minds perfectly convinced before an august and awful tribunal, which at once tries the accuser and the accused.

Having stated thus much with respect to the Commons, I am to read to your lordships the resolution, which the Commons have come to upon this great occasion, and upon which I shall take the liberty to say a very few words.

My lords, the Commons have resolved last night, and I did not see the resolution till this morning, "That no direction or authority was given by this House to the committee appointed to manage the impeachment against Warren Hastings, Esquire, to make any charge or allegation against the said Warren Hastings, respecting the condemnation or execution of Nundcomar; and that the words spoken by the right honourable Edmund Burke, one of the said managers, videlicet, that *He* (meaning Mr. Hastings) murdered that man (meaning Nundcomar) by the hands of Sir Elijah Impey, ought not to have been spoken."

My lords, this is the resolution of the House of Commons. Your lordships well know and remember my having used such or similar words, and the end and purpose, for which I used them. I owe a few words of explanation to the Commons of Great Britain, who attend in a committee of the whole House to be the observers and spectators of my conduct. I owe it to your lordships; I owe it to this great auditory; I owe it to the present times and to posterity, to made some apology for a proceeding, which has drawn upon me the disavowal of the House, which I represent. Your lordships will remember, that this charge, which I have opened to your lordships, is primarily a charge founded upon the evidence of the rajah Nundcomar, and consequently, I thought myself obliged, I thought it a part of my duty, to support the credit of that person, who is the principal evidence to support the direct charge, that is brought before your lordships. I knew, that Mr. Hastings, in his anticipated defence before the House of Commons, had attempted to shake the credit of that witness. I therefore thought myself justified in informing your lordships, and in warning him, that, if he did attempt to shake the credit of an important witness against him by an allegation of his having been condemned and executed for a forgery, I would endeavour to support his credit by attacking that very prosecution, which brought on that condemnation, and that execution; and that I did consider it, and would lay grounds before your lordships to prove it, to be a murder commit-

ted, instead of a justification set up, or that ought to be set up.

Now, my lords, I am ordered by the Commons no longer to persist in that declaration, and I, who know nothing in this place, and ought to know nothing in this place, but obedience to the Commons, do mean, when Mr. Hastings makes that objection, if he shall be advised to make it, against the credit of rajah Nundcomar, not thus to support that credit; and, therefore, that objection to the credit of the witness must go unrefuted by me. My lords, I must admit, perhaps against my private judgment (but that is of no consideration for your lordships, when opposed to the judgment of the House of Commons) or, at least, not contest, that a first minister of state, in a great kingdom, who had the benefit of the administration, and of the entire and absolute command of a revenue of fifteen hundred thousand pounds a year, had been guilty of a paltry forgery in Calcutta; that this man, who had been guilty of this paltry forgery, had waited for his sentence and his punishment, till a body of English judges, armed with an English statute, came to Calcutta; and that this happened at the very happy nick and moment, when he was accusing Mr. Hastings of the bribery, with which we now, in the name of the Commons, charge him; that it was owing to an entirely fortuitous concurrence of circumstances, in which Mr. Hastings had no share, or that it was owing to something beyond this, something that is rather pious than fortuitous, namely, that, as Mr. Hastings tells you himself, "all persuasions of men were impressed with a superstitious belief, that a fortunate influence directed all my actions to their destined ends." I, not being at that time infected with the superstition, and considering what I thought Mr. Hastings's guilt to be, and what I must prove it to be, as well as I can, did not believe, that Providence did watch over Mr. Hastings, so as, in the nick of time, like a god in a machine, to come down to save him in the moment of his imminent peril and distress: I did not think so, but I must not say so.

But, now to show, that it was not weakly, loosely, or idly, that I took up this business, or that I anticipated a defence, which it was not probable for Mr. Hastings to make (and I wish to speak to your lordships in the first instance, but to the Commons in the next,) I will read part of Mr. Hastings's defence before the House of Commons; it is in evidence before your lordships. He says: "My accuser," (meaning myself, then acting as a private member of parliament,) "charges me with the receipt of large sums of money, corruptly taken before the promulgation of the regulating act of 1773, contrary to my covenants with the company, and with the receipt of very large sums taken since, in defiance of that law, and contrary to my declared sense of its provisions." And he ushers in this charge in the following pompous diction;—"That in March 1775 the late rajah Nundcomar, a native Hindoo of the highest cast in his religion, and of the highest rank in society by the offices which he had held under the country government, did lay before the council an account of various sums of money," &c. "It would naturally strike every person, ignorant of the character of Nundcomar, that an accusation made by a person of the highest cast in his religion, and of the highest rank by his offices, demanded particular notice, and acquired a considerable degree of credit, from a prevalent association of ideas, that a nice sense of honour is connected with an elevated rank of life: but when this honourable House is informed, that my accuser knew (though he suppressed the facts) that this person, of high rank, and high cast, had forfeited every pretension to honour, veracity, and credit; that these are facts recorded in the very proceedings, which my accuser partially quotes, proving this man to have been guilty of the most flagrant forgery of letters from Munny Begum and the nabob Zeteram ul Dowlah (independent of the forgery, for which he suffered death) of the most deliberate treachery to the state, for which he was confined, by the orders of the court of directors, to the limits of the town of Calcutta, in order to prevent his dangerous intrigues; and of having violated every principle of common honesty in private life; I say, when this honourable House is acquainted, it is from mutilated and garbled assertions, founded on the testimony of such an evidence, without the whole matter being fairly stated, I do hope and trust it will be sufficient for them to reject *now* these vague and unsupported charges, in like manner as they were before rejected by the court of directors, and his majesty's ministers, when they were first made by General Clavering, Colonel Monson, and Mr. Francis."

"I must here interrupt the course of my defence to explain on what grounds I employed, or had any connexion with, a man of so flagitious a character as Nundcomar."

My lords, I hope this was a good and reasonable ground for me to anticipate the defence, which Mr. Hastings would make in this house, namely, on the known, recognized,

infamous character of Nundcomar with regard to certain proceedings there charged at large, with regard to one forgery, for which he suffered, and two other forgeries, with which Mr. Hastings charged him. I, who found, that the Commons of Great Britain had received that very identical charge of Nundcomar, and given it to me, in trust, to make it good, did naturally, I hope excusably, (for that is the only ground upon which I stand,) endeavour to support that credit, upon which the House acted. I hope I did so, and I hope, that the goodness of that intention may excuse me, if I went a little too far on that occasion. I would have endeavoured to support that credit, which it was much Mr. Hastings's interest to shake, and which he had before attempted to shake.

Your lordships will have the goodness to suppose me now making my apology, and by no manner of means intending to persist either in this, or in any thing, which the House of Commons shall desire me not to declare in their name. But the House of Commons has not denied me the liberty to make you this just apology; God forbid they should; for they would be guilty of great injustice, if they did. The House of Commons, whom I represent, will likewise excuse me, their representative, whilst I have been endeavouring to support their characters in the face of the world, and to make an apology, and only an humble apology, for my conduct, for having considered that act in the light that I represented it; and which I did merely from my private opinion, without any formal instruction from the House. For there is no doubt, that the House is perfectly right, inasmuch as the House did neither formally instruct me, nor at all forbid my making use of such an argument; and therefore I have given your lordships the reason, why it was fit to make use of such argument, if it was right to make use of it. I am in the memory of your lordships, that I did conceive it to be relevant, and it was by the poverty of the language I was led to express my private feelings under the name of a *murder*. For, if the language had furnished me, under the impression of those feelings, with a word sufficient to convey the complicated atrocity of that act, as I felt it in my mind, I would not have made use of the word *murder*. It was on account of the language furnishing me with no other, I was obliged to use that word. Your lordships do not imagine, I hope, that I used that word in any other than a moral and popular sense, or that I used it in the legal and technical sense of the word *murder*. Your lordships know, that I could not bring before this bar any commoner of Great Britain on a charge for murder. I am not so ignorant of the laws and constitution of my country. I expressed an act, which I conceived to be of an atrocious and evil nature, and partaking of some of the moral evil consequences of that crime. What led me into that errour? nine years' meditation upon that subject.

My lords, the prisoner at the bar in the year 1780 sent a petition to the House of Commons complaining of that very chief justice, Sir Elijah Impey. The House of Commons, who then had some trust in me, as they have some trust still, did order me, along with persons more wise and judicious than myself, several of whom stand near me, to make an inquiry into the state of the justice of that country. The consequence of that inquiry was, that we began to conceive a very bad opinion both of the complainant and defendant in that business: that we found the English justice to be, as we thought it, and reported it to the House, a grievance, instead of a redress, to the people of India. I could bring before your lordships, if I did not spare your patience, whole volumes of reports, whole bodies of evidence, which in the progress we have made, in the course of eight or nine years, brought to my mind such a conviction, as will never be torn from my heart but with my life: and I should have no heart, that was fit to lodge any honest sentiment, if I departed from my opinion upon that occasion. But, when I declare my own firm opinion upon it; when I declare the reasons, that led me to it; when I mention the long meditation, that preceded my founding a judgment upon it, the strict inquiry, the many hours and days spent in consideration, collation, and comparison, I trust, that infirmity, which could be actuated by no malice to one party or the other, may be excused; I trust, that I shall meet with this indulgence, when your lordships consider, that as far as you know me, as far as my public services for many years account for me, I am a man of a slow, laborious, inquisitive temper; that I do seldom leave a pursuit without leaving marks, perhaps of my weakness, but leaving marks of that labour; and that, in consequence of that labour, I made that affirmation, and thought the nature of the cause obliged me to support and substantiate it. It is true, that those, who sent me here, have sagacity to decide upon the subject in a week; they can, in one week, discover the errours of my labours for nine years.

Now, that I have made this apology to you, I assure you, you shall never hear me either in my own name here, much less in the name of the Commons, urge one thing to you in support of the credit of Nundcomar grounded upon that judgment, until the House shall instruct and order me otherwise; because I know, that, when I can discover their sentiments, I ought to know nothing here, but what is in strict and literal obedience to them.

My lords, another thing might make me perhaps a little willing to be admitted to the proof of what I advanced, and that is, the very answer of Mr. Hastings to this charge, which the House of Commons, however, have adopted, and, therefore, in some degree purified. "To the malicious part of this charge, which is the condemnation of Nundcomar for a forgery, I do declare, in the most solemn and unreserved manner, that I had no concern, either directly or indirectly, in the apprehending, prosecuting, or executing of Nundcomar. He suffered for a crime of forgery, which he had committed in a private trust, that was delegated to him, and for which he had been prosecuted in the dewannee courts of the country, before the institution of the supreme court of judicature. To adduce this circumstance, therefore, as a confirmation of what was before suspicious from his general depravity of character, is just as reasonable as to assert, that the accusations of Empson and Dudley were confirmed, because they suffered death for their atrocious acts."

My lords, this was Mr. Hastings's defence before the House of Commons, and it is now in evidence before your lordships. In this defence, he supposes the charge, which was made originally before the Commons, and which the Commons voted (though afterwards, for the convenience of shortening it, the affair was brought before your lordships in the way, in which it is,) he supposes, I say, the whole to proceed from a malicious intention; and I hope your lordships will not think, and I hope the Commons, reconsidering this matter, will not think, that, when such an imputation of malice was made for the purpose of repelling this corroborating argument, which was used in the House of Commons to prove his guilt, I was wrong in attempting to support the House of Commons against his imputation of malice.

I must observe, where I am limited and where I am not. I am limited, strictly, fully, (and your lordships and my country, who hear me, will judge how faithfully I shall adhere to that limitation) not to support the credit of Nundcomar by any allegation against Mr. Hastings respecting his condemnation or execution; but I am not at all limited from endeavouring to support his credit against Mr. Hastings's charges of other forgeries; and from showing you, what I hope to show you clearly in a few words, that Nundcomar cannot be presumed guilty of forgery with more probability than Mr. Hastings is guilty of bringing forward a light and dangerous (for I use no other words than a light and dangerous) charge of forgery, when it serves his purpose. Mr. Hastings charges Nundcomar with two other forgeries. "These two forgeries," he says, "are facts recorded in the very proceedings, which my accuser partially quotes, proving this man to have been guilty of the most flagrant forgery of a letter from Munny Begum, and of a letter from the nabob Zeteram ul Dowlah," and, therefore, he infers malice in those, who impute any thing improper to him, knowing, that the proof stood so. Here he asserts, that there are records before the House of Commons, and on the company's proceedings and consultations, proving Nundcomar to have been guilty of these two forgeries. Turn over the next page of his printed defence, and you find a very extraordinary thing. You would have imagined, that this forgery of a letter from Munny Begum, which, he says, is recognized and proved on the journals, was a forgery charged by Munny Begum herself, or by somebody on her part, or some person concerned in this business. There is no other charge of it whatever, but the charge of Warren Hastings himself. He wants you to discredit a man for forgery upon no evidence under heaven, but that of his own, who thinks proper, without any sort of authority, without any sort of reference, without any sort of collateral evidence, to charge a man with that very direct forgery. "You are," he says, "well informed of the reasons, which first induced me to give any space of my confidence to Nundcomar, with whose character I was acquainted by an experience of many years. The means, which he took to acquire it, were peculiar to himself. He sent a messenger to me at Madras, on the first news of my appointment to this presidency, with pretended letters from Munny Begum and the nabob Zeteram ul Dowlah, the brother of the nabob Jaffier Ally Cawn, filled with bitter invectives against Mahomed Reza Cawn, and of as warm recommendations, as I recollect, of Nundcomar. I have been since informed by the begum, that the letter, which bore her seal, was a complete forgery; and that

she was totally unacquainted with the use which had been made of her name, till informed of it by Juggut Chund, Nundcomar's son-in-law, who was sent to her expressly to entreat her not to divulge it. Mr. Middleton whom she consulted on this occasion, can attest the truth of this story."

Mr. Middleton is dead, my lords. This is not the Mr. Middleton, whom your lordships heard, and know well in this House, but a brother of that Mr. Middleton, who is since dead. Your lordships find, when we refer to the records of the company for the proof of this forgery, that there is no other than the unsupported assertion of Mr. Hastings himself, that he was guilty of it. Now that was bad enough; but then hear the rest. Mr. Hastings has charged this unhappy man whom we must not defend, with another forgery; he has charged him with a forgery of a letter from Zeteram ul Dowlah to Mr. Hastings. Now, you would imagine, that he would have given his own authority at least for that assertion, which, he says, was proved. He goes on, and says, "I have not yet had the curiosity to inquire of the nabob, Zeteram ul Dowlah, whether his letter was of the same stamp; but I cannot doubt it."

Now here he begins in this very defence, which is before your lordships, to charge a forgery, upon the credit of Munny Begum, without supporting it even by his own testimony; and another forgery, in the name of Zeteram ul Dowlah, which, he said, he had not even the curiosity to inquire into, and yet desires you, at the same time, to believe it to be proved. Good God! in what condition do men of the first character and situation in that country stand, when we have here delivered to us, as a record of the company, Mr. Hastings's own assertions, saying, that these forgeries were proved, though you have, for the first, nothing but his own unsupported assertion, and for the second, his declaration only, that he had not the curiosity to inquire into it. I am not forbidden by the Commons to state how and on what slight grounds Warren Hastings charges the natives of the country with forgery; neither am I forbidden to bring forward the accusation, which Mr. Hastings made against Nundcomar for a conspiracy, nor the event of it, nor any circumstance relative to it. I shall therefore proceed in the best manner I can. There was a period, among the revolutions of philosophy, when there was an opinion, that, if a man lost one limb, or organ, the strength of that, which was lost, retired into what was left. My lords, if we are straitened in this, then our vigour will be redoubled in the rest; and we shall use it with double force. If the top and point of the sword is broken off, we shall take the hilt in our hand, and fight with whatever remains of the weapon against bribery, corruption, and peculation; and we shall use double diligence under any restraint, which the wisdom of the Commons may lay upon us, or your lordships' wisdom may oblige us to submit to.

Having gone through this business, and shown in what manner I am restrained, where I am not to repel Mr. Hastings's defence, and where I am left at large to do it, I shall submit to the strict injunction with the utmost possible humility, and enjoy the liberty, which is left to me, with vigour, with propriety, and with discretion, I trust.

My lords, when the circumstance happened, which has given occasion to the long parenthesis, by which my discourse has been interrupted, I remember I was beginning to open to your lordships the second period of Mr. Hastings's scheme and system of bribery. My lords, his bribery is so extensive, and has had such a variety in it, that it must be distinguished not only with regard to its kind, but must be likewise distinguished according to the periods of bribery and the epochas of peculation committed by him. In the first of those periods we shall prove to your lordships, I believe, without the aids, that we hoped for (your lordships allowing, as I trust you will do, a good deal for our situation) we shall be able, I say, to prove, that Mr. Hastings took as a bribe, for appointing Munny Begum, three lacks and an half of rupees; we shall prove the taking at the same time the rajeshye bribes. Mr. Hastings, at that time, followed bribery in a natural manner: he took a bribe, he took it as large as he could; he concealed it as well as he could, and he got out of it by artifice, or boldness, by use of trick, or use of power, just as he was enabled: he acted like a wild natural man, void of instruction, discipline, and art.

The second period opened another system of bribery. About this time he began to think (from what communication your lordships may guess) of other means, by which, when he could no longer conceal any bribe, that he had received, he not only might exempt himself from the charge and the punishment of guilt, but might convert it into a kind of merit, and instead of a breaker of laws, a violator of his trust, a receiver of scandalous bribes, a peculator of the first magnitude, might make himself to be considered as a great distinguishing

eminent financier, a collector of revenue in new and extraordinary ways: and that we should thus at once praise his diligence, industry, and ingenuity. The scheme he set on foot was this: he pretended, that the company could not exist upon principles of strict justice, (for so he expresses it,) and that their affairs, in many cases, could not be so well accommodated by a regular revenue, as by privately taking money, which was to be applied to their service by the person, who took it, at his discretion. This was the principle he laid down. It would hardly be believed, I imagine, unless strong proof appeared, that any man could be so daring as to hold up such a resource to a regular government, which had three millions of known, avowed, a great part of it territorial, revenue. But it is necessary, it seems, to piece out the lion's skin with a fox's tail; to tack on a little piece of bribery and a little piece of peculation, in order to help out the resources of a great and flourishing state; that they should have, in the knavery of their servants, in the breach of their laws, and in the entire defiance of their covenants, a real resource applicable to their necessities; of which they were not to judge, but the persons who were to take the bribes; and that the bribes thus taken were, by a mental reservation, a private intention in the mind of the taker, unknown to the giver, to be some time or other, in some way or other, applied to the public service. The taking such bribes was to become a justifiable act, in consequence of that reservation in the mind of the person who took them, and he was not to be called to account for them, in any other way than as he thought fit.

My lords, an act of parliament passed in the year 1773, the whole drift of which, I may say, was to prevent bribery, peculation, and extortion in the company's servants; and the act was penned, I think, with as much strictness and rigour as ever act was penned. The twenty-fourth clause of chap. 63, 13 Geo. III, has the following enactment: "And be it further enacted by the authority aforesaid, that from and after the 1st day of August 1774, no person holding or exercising any civil or military office under the crown, or the said United Company in the East-Indies, shall accept, receive, or take, directly or indirectly, by himself, or any other person or persons on his behalf, or for his use or benefit, of and from any of the Indian princes or powers, or their ministers or agents, (or any of the natives of Asia) any present, gift, donation, gratuity, or reward, pecuniary or otherwise, upon any account, or on any pretence whatsoever; or any promise or engagement for any present, gift, donation, gratuity, or reward; and if any person, holding or exercising any such civil or military office, shall be guilty of any such offence, and shall be thereof legally convicted," &c. &c.

It then imposes the penalties, and your lordships see, that human wisdom cannot pen an act more strongly directed against taking bribes upon any pretence whatever. This act of parliament was in affirmance of the covenant entered into by the servants of the company, and of the explicit orders of the company, which forbid any person whatever in trust—"directly or indirectly, to accept, take or receive, or agree to accept, take, or receive, any gift, reward, gratuity, allowance, donation, or compensation, in money, effects, jewels, or *otherwise howsoever*, from any of the Indian princes, sovereigns, soubahs, or nabobs, or any of their ministers, servants, or agents, exceeding the value of 4,000 rupees, &c. &c.

"And that he, the said Warren Hastings, shall and will convey, assign, and make over, to the said United Company for their sole and proper use and benefit, all and every such gifts, rewards, gratuities, allowances, donations, or compensations whatsoever, which, contrary to the true intent and meaning of these presents, shall come into the hands, possession, or power of the said Warren Hastings, or any other person or persons in trust for him or for his use."

The nature of the covenant, the act of parliament, and the company's orders, are clear. First, they have not forbidden their governour-general, nor any of their governours, to take and accept from the princes of the country, openly and publicly, for their use, any territories, lands, sums of money, or other donations, which may be offered in consequence of treaty or otherwise. It was necessary to distinguish this from every other species of acceptance, because many occasions occurred, in which fines were paid to the company in consequence of treaties; and it was necessary to authorize the receipt of the same in the company's treasury, as an open and known proceeding. It was never dreamed, that this should justify the taking of bribes, privately and clandestinely, by the governour, or any other servant of the company, for the purpose of its future application to the company's use. It is declared, that all such bribes and money received should be the property of the company. And why? As a means of recovering them out of the corrupt hands, that had taken them; and therefore this was not a license for bribery,

but a prohibitory and penal clause, providing the means of coercion, and making the prohibition stronger. Now Mr. Hastings has found out, that this very coercive clause, which was made in order to enable his superiours to get at him and punish him for bribery, is a license for him to receive bribes. He is not only a practitioner of bribery, but a professor, a doctor upon the subject. His opinion is, that he might take presents or bribes to himself; he considers the penal clause, which the company attached to their prohibition, and by which all such bribes are constructively declared to be theirs, in order to recover them out of his hands, as a license to receive bribes, to extort money, and he goes with the very prohibition in his hand, the very means, by which he was to be restrained, to exercise an unlimited bribery, peculation, and extortion, over the unhappy natives of the country.

The moment he finds, that the company has got a scent of any one of his bribes, he comes forward and says, to be sure, I took it as a bribe: I admit the party gave me it as a bribe: I concealed it for a time, because I thought it was for the interest of the company to conceal it: but I had a secret intention, in my own mind, of applying it to their service: you shall have it; but you shall have it as I please, and when I please; and this bribe becomes sanctified the moment I think fit to apply it to your service. Now, can it be supposed, that the India company or that the act of parliament meant, by declaring, that the property taken by a corrupt servant, contrary to the true intent of his covenant, was theirs, to give a license to take such property; and that one mode of obtaining a revenue was by the breach of the very covenants, which were meant to prevent extortion, peculation, and corruption? What sort of body is the India company, which, coming to the verge of bankruptcy by the robbery of half the world, is, afterwards, to subsist upon the alms of peculation and bribery, to have its strength recruited by the violation of the covenants imposed upon its own servants? It is an odd sort of body to be so fed and so supported. This new constitution of revenue, that he has made, is indeed a very singular contrivance. It is a revenue to be collected by any officer of the company, (for they are all alike forbidden, and all alike permitted,) to be collected by any person, from any person, at any time, in any proportion, by any means, and in any way he pleases; and to be accounted for, or not to be accounted for, at the pleasure of the collector; and, if applied to their use, to be applied at his discretion, and not at the discretion of his employers. I will venture to say, that such a system of revenue never was before thought of. The next part is an exchequer, which he has formed, corresponding with it. You will find the board of exchequer made up of officers ostensibly in the company's service, of their public accountant and public treasurer, whom Mr. Hastings uses as an accountant and treasurer of bribes, accountable not to the company, but to himself, acting in no public manner, and never acting but upon his requisition, concealing all his frauds and artifices to prevent detection and discovery. In short, it is an exchequer, in which, if I may be permitted to repeat the words I made use of on a former occasion, extortion is the assessor, in which fraud is the treasurer, confusion the accountant, oblivion the remembrancer. That these are not mere words, I will exemplify as I go through the detail: I will show you, that every one of the things I have stated are truths, in fact, and that these men are bound by the condition of their recognised fidelity to Mr. Hastings to keep back his secrets, to change the accounts, to alter the items, to make him debtor or creditor at pleasure; and, by that means, to throw the whole system of the company's accounts into confusion.

I have shown the impossibility of the company's having intended to authorize such a revenue, much less such a constitution of it as Mr. Hastings has drawn from the very prohibitions of bribery, and such an exchequer as he has formed upon the principles I have stated. You will not dishonour the legislature, or the company, be it what it may, by thinking, that either of them could give any sanction to it. Indeed you will not think, that such a device could ever enter into the head of any rational man. You are then to judge, whether it is not a device to cover guilt, to prevent detection by destroying the means of it; and at the same time, your lordships will judge, whether the evidence we bring you to prove that revenue is a mere pretext, be not stronger than the strange absurd reasons, which he has produced for forming this new plan of an exchequer of bribery.

My lords, I am now going to read to you a letter, in which Mr. Hastings declares his opinion upon the operation of the act, which he now has found the means, as he thinks, of evading. My lords, I will tell you, to save you a good deal of reading, that there was certain prize money given by Shuja ul Dowlah to a body of the company's troops, serving in the field; that this prize money was to be dis-

tributed among them; but upon application being made to Mr. Hastings for his opinion and sanction in the distribution, Mr. Hastings, at first, seemed inclined to give way to it, but, afterwards, upon reading and considering the act of parliament, before he allowed the soldiery to receive this public donation, he thus describes his opinion of the operation of the act.

Extract of a letter from Mr. Hastings to Colonel Champion, 31st August 1774.—"Upon a reference to the new act of parliament, I was much disappointed, and sorry to find, that our intentions were entirely defeated by a clause in the act (to be in force after the 1st of August 1774) which divests us of the power to grant, and expressly prohibits the army to receive, the nabob's intended donation. Agreeable to the positive sense of this clause, notwithstanding it is expressed individually, there is not a doubt but the army is included with all other persons in the prohibition from receiving presents or donations; a confirmation of which is, that in the clause of exceptions, wherein 'counsellours at law, physicians, surgeons, and chaplains, are permitted to receive the fees annexed to their profession,' no mention whatever is made of any latitude given to the army, or any circumstances wherein it would be allowable for them to receive presents. . . . . This unlucky discovery of an exclusion by act of parliament, which admits of no abatement or evasion wherever its authority extends, renders a revisal of our proceedings necessary, and leaves no option to our decision; it is not like the ordinances of the court of directors, where a favourable construction may be put, and some room is left for the interposition of the authority vested in ourselves; but positive and decisive, admitting neither of refinement nor misconstruction. I should be happy, if, in this instance, a method could be devised of setting the act aside, which I should most willingly embrace: but, in my opinion, an opposition would be to incur the penalty."

Your lordships see, Mr. Hastings considered this act to be a most unlucky discovery: indeed, as long as it remained in force, it would have been unlucky for him, because it would have destroyed one of the principal sources of his illegal profits. Why does he consider it unlucky? Because it admits of no reservation, no exception, no refinement whatever, but is clear, positive, decisive. Now, in what case was it, that Mr. Hastings made this determination? In the case of a donation, publicly offered to an army serving in the field, by a prince then independent of the company. If ever there was a circumstance, in which any refinement, any favourable construction of the act, could be used, it was in favour of a body of men, serving in the field, fighting for their country, spilling their blood for it, suffering all the inconveniencies of that climate. It was undoubtedly voluntarily offered to them by the party, in the height of victory, and enriched by the plunder of whole provinces. I believe your lordships will agree with me, that if any relaxation, any evasion of an act of parliament, could be allowed, if the intention of the legislature could for a moment be trifled with, or supposed for a moment doubtful, it was in this instance; and yet, upon the rigour of the act, Mr. Hastings refuses that army the price of their blood, money won solely, almost, by their arms, for a prince, who had acquired millions by their bravery, fidelity, and sufferings. This was the case, in which Mr. Hastings refused a public donation to the army, and from that day to this they have never received it.

If the receipt of this public donation could be thus forbidden, whence has Mr. Hastings since learned, that he may privately take money, and take it not only from princes, and persons in power, and abounding in wealth, but, as we shall prove, from persons in a comparative degree of penury and distress? That he could take it from persons in office and trust whose power gave them the means of ruining the people for the purpose of enabling themselves to pay it? Consider in what a situation the company must be, if the governour-general can form such a secret exchequer of direct bribes, given *eo nomine* as bribes, and accepted as such, by the parties concerned in the transaction, to be discovered only by himself, and with only the inward reservation, that I have spoken of.

In the first place, if Mr. Hastings should die, without having made a discovery of all his bribes, or if any other servant of the company should imitate his example, without his heroic good intentions, in doing such villanous acts; how is the company to recover the bribe money? The receivers need not divulge it, till they think fit, and the moment an informer comes, that informer is ruined. He comes, for instance, to the governour-general and council, and charges, say not Mr. Hastings, but the head of the board of revenue, with receiving a bribe. Receive a bribe! so I did; but it was with an intention of applying it to the company's service. There I nick the informer: I am beforehand with him: the bribe

is sanctified by my inward jesuitical intention. I will make a merit of it with the company. I have received £.40,000 as a bribe; there it is for you; I am acquitted; I am a meritorious servant; let the informer go, and seek his remedy as he can. Now if an informer is once instructed, that a person, who receives bribes, can turn them into merit, and take away his action from him, do you think, that you ever will, or can, discover any one bribe? But what is still worse, by this method disclose but one bribe, and you secure all the rest, that you possibly can receive upon any occasion. For instance, strong report prevails, that a bribe of £.40,000 has been given, and the receiver expects that information will be laid against him. He acknowledges that he has received a bribe of £.40,000 but says, that it was for the service of the company, and that it is carried to their account. And thus by stating, that he has taken some money which he has accounted for, but concealing from whom that money came, which is exactly Mr. Hastings's case, if at last an information should be laid before the company of a specific bribe having been received of £.40,000, it is said by the receiver, Lord! this is the £.40,000 I told you of; it is broken into fragments, paid by instalments; and you have taken it and put it into your own coffers.

Again, suppose him to take it through the hand of an agent, such as Gunga Govin Sing; and that his agent, who, as we have lately discovered, out of a bribe of £.40,000 which Mr. Hastings was to have received, kept back half of it, falls into their debt like him; I desire to know, what the company can do in such a case? Gunga Govin Sing has entered into no covenants with the company. There is no trace of his having this money, except what Mr. Hastings chooses to tell. If he is called upon to refund it to the company, he may say he never received it; that he was never ordered to extort this money from the people; or if he was under any covenant not to take money, he may set up this defence, I am forbidden to receive money; and I will not make a declaration, which will subject me to penalties; or he may say in India before the supreme court, I have paid the bribe all to Mr. Hastings: and, then, there must be a bill and suit there, a bill and suit here, and by that means, having one party on one side the water, and the other party on the other, the company may never come to a discovery of it. And that in fact this is the way in which one of his great bribe agents has acted, I shall prove to your lordships by evidence.

Mr. Hastings had squeezed out of a miserable country a bribe of £.40,000, of which he was enabled to bring to the account of the company only £.20,000, and of which we should not even have known the existence, if the inquiries, pursued with great diligence by the House of Commons, had not extorted the discovery; and even now that we know the fact, we can never get at the money; the company can never receive it; and before the House had squeezed out of him, that some such money had been received, he never once told the court of directors, that his black bribe agent, whom he recommended to their service, had cheated both them and him of £.20,000 out of the fund of the bribe revenue. If it be asked, where is the record of this? Record there is none. In what office is it entered? It is entered in no office; it is mentioned as privately received for the company's benefit; and you shall now further see what a charming office of receipt and account this new exchequer of Mr. Hastings's is.

For, there is another and a more serious circumstance, attending this business. Every one knows, that by the law of this, and, I believe, of every country, any money, which is taken illegally from any person, as every bribe or sum of money extorted or paid without consideration is, belongs to the person who paid it, and he may bring his action for it, and recover it. Then, see how the company stands: the company receives a bribe of £.40,000 by Mr. Hastings; it is carried to its account; it turns bribery into a revenue; it sanctifies it. In the mean time, the man, from whom this money is illegally taken, sues Mr. Hastings. Must not he recover of Mr. Hastings? Then, if so, must not Mr. Hastings recover it again from the company? The company undoubtedly is answerable for it. And here is a revenue, which every man, who has paid it, may drag out of the treasury again. Mr. Hastings's donations of his bribes to the treasury are liable to be torn from it at pleasure by every man who gives the money. First it may be torn from him who receives it, and then he may recover it from the treasury, to which he has given it.

But admitting, that the taking of bribes can be sanctified by their becoming the property of the company, it may still be asked, for what end and purpose has the company covenanted with Mr. Hastings, that money, taken extorsively, shall belong to the company? Is it, that satisfaction and reparation may be awarded against the said Warren Hastings, to the said company, for their own benefit? No, it is for

the benefit of the injured persons; and it is to be carried to the company's account, "but in trust, nevertheless, and to the intent, that the said company may and do render and pay over the moneys received or recovered by them to the parties injured or defrauded, which the said company accordingly hereby agree and covenant to do." Now here is a revenue to be received by Mr. Hastings for the company's use, applied, at his discretion, to that use, and which the company has previously covenanted to restore to the persons, that are injured and damaged. This is revenue, which is to be torn away by the action of any person; a revenue, which they must return back to the person complaining, as they in justice ought to do; for no nation ever avowed making a revenue out of bribery and peculation. They are, then, to restore it back again. But how can they restore it? Mr. Hastings has applied it: he has given it in presents to princes, laid it out in budgerows, in pen, ink, and wax; in salaries to secretaries; he has laid it out just in any way he pleased; and the India company, who have covenanted to restore all this money to the persons from whom it came, are deprived of all means of performing so just a duty. Therefore, I dismiss the idea, that any man so acting could have had a good intention in his mind: the supposition is too weak, senseless, and absurd. It was only in a desperate cause, that he made a desperate attempt; for we shall prove, that he never made a disclosure without thinking that a discovery had been previously made, or was likely to be made, together with an exposure of all the circumstances of his wicked and abominable concealment.

You will see the history of this new scheme of bribery, by which Mr. Hastings contrived, by avowing some bribes, to cover others, attempted to outface his delinquency, and, if possible, to reconcile a weak breach of the laws with a sort of spirited observance of them, and to become infamous for the good of his country.

The first appearance of this practice of bribery was in a letter of the 29th of November, 1780. The cause, which led to the discovery, was a dispute between him and Mr. Francis at the board, in consequence of a very handsome offer made by Mr. Hastings to the board relative to a measure proposed by him, to which he found one objection to be the money that it would cost. He made the most generous and handsome offer, as it stands upon record, that perhaps any man ever made, namely, that he would defray the expense out of his own private cash, and that he had deposited with the treasurer two lacks of rupees. This was in June 1780, and Mr. Francis soon after returned to Europe. I need not inform your lordships, that Mr. Hastings had, before this time, been charged with bribery and peculation by General Clavering, Colonel Monson, and Mr. Francis. He suspected, that Mr. Francis, then going to Europe, would confirm this charge by the suspicious nature and circumstances of this generous offer; and this suspicion was increased by the connexion, which he supposed, and which we can prove he thought, Mr. Francis had with Cheit Sing. Apprehending therefore, that he might discover and bring the bribe to light some way or other, he resolved to anticipate any such discovery by declaring, upon the 29th of November, that this money was not his own. I will mention to your lordships hereafter the circumstances of this money. He says, "My present reason for adverting to my conduct," that is, his offer of two lacks of rupees out of his own private cash for the company's service, upon the 26th of June, 1780, "on the occasion I have mentioned, is to obviate the false conclusions or proposed misrepresentations, which may be made of it, either as an artifice of ostentation, or as the effect of corrupt influence, by assuring you, that the money, by whatever means it came into your possession, was not my own; that I had myself no right to it, nor would or could have received it, but for the occasion, which prompted me to avail myself of the accidental means, which were at that instant afforded me, of accepting and converting it to the property and use of the company: and with this brief apology I shall dismiss the subject."

My lords, you see what an account Mr. Hastings has given of some obscure transaction, by which he contradicts the record; for, on the 26th of June, he generously, nobly, full of enthusiasm for their service, offers to the company money of his own. On the 29th of November, he tells the court of directors, that the money he offered on the former day was not his own; that his assertion was totally false, that the money was not his; that he had no right to receive it; and that he would not have received it, but for the occasion, which prompted him to avail himself of the accidental means, which at that instant offered.

Such is the account sent by their governour in India, acting as an accountant to the company—a company with whom every thing is matter of account. He tells them, indeed, that the sum he had offered was not his own; that he had no right to it; and that he would not have

taken it, if he had not been greatly tempted by the occasion; but he never tells them by what means he came at it, the person, from whom he received it, the occasion, upon which he received it, (whether justifiable or not,) or any one circumstance under heaven relative to it. This is a very extraordinary account to give to the public of a sum, which we find to be somewhere above twenty thousand pounds, taken by Mr. Hastings in some way or other. He set the company blindly groping in the dark by the very pretended light, the ignis fatuus, which he held out to them: for at that time, all was in the dark, and in a cloud; and this is what Mr. Hastings calls *information* communicated to the company on the subject of these bribes.

You have heard of obscurity illustrated by a further obscurity: *obscurum per obscurius*. He continues to tell them, "Something of affinity to this anecdote may appear in the first aspect of another transaction, which I shall proceed to relate, and of which it is more immediately my duty to inform you." He then tells them, that he had contrived to give a sum of money to the rajah of Berar, and the account he gives of that proceeding is this: "We had neither money to spare, nor, in the apparent state of that government in its relation to ours, would it have been either prudent or consistent with our public credit to have afforded it. It was, nevertheless, my decided opinion, that some aid should be given, not less as a necessary relief than as an indication of confidence, and a return for the many instances of substantial kindnesses, which we had, within the course of the two last years, experienced from the government of Berar. I had an assurance, that such a proposal would receive the acquiescence of the board; but I knew, that it would not pass without opposition, and it would have become public, which might have defeated its purpose. Convinced of the necessity of the expedient, and assured of the sincerity of the government of Berar from evidences of stronger proof to me than I could make them appear to the other members of the board, I resolved to adopt it, and to take the entire responsibility of it upon myself. In this mode a less considerable sum would suffice. I accordingly caused three lacks of rupees to be delivered to the minister of the rajah of Berar, resident in Calcutta. He has transmitted it to Cultac. Two-thirds of this sum I have raised by my own credit, and shall charge it in my official accounts. The other third I have supplied from the cash in my hands belonging to the honourable company."

Your lordships see in this business another mode, which he has, of accounting with the company, and informing them of his bribe. He begins his account of this transaction by saying, that it has something of affinity to the last anecdote, meaning the account, of the first bribe. An anecdote is made a head of an account, and this, I believe, is what none of your lordships ever have heard of before, and I believe it is yet to be learned in this commercial nation, a nation of accurate commercial account. The account he gives of the first is an anecdote; and what is his account of the second? A relation of an anecdote: not a near relation, but something of affinity; a remote relation cousin three or four times removed, of the half blood, or something of that kind, to this anecdote; and he never tells them any circumstance of it whatever of any kind, but that it has some affinity to the former anecdote. But, my lords, the thing, which comes to some degree of clearness, is this, that he did give money to the rajah of Berar, and your lordships will be so good as to advert carefully to the proportions, in which he gave it. He did give him two lacks of rupees of money raised by his own credit, his own money; and the third he advanced out of the company's money in his hands. He might have taken the company's money undoubtedly, fairly, openly, and held it in his hands for an hundred purposes, and therefore he does not tell them, that even that third was money he had obtained by bribery and corruption. No; he says, it is money of the company's, which he had in his hand; so that you must get through a long train of construction, before you ascertain, that this sum was what it turns out to be, a bribe, which he retained for the company. Your lordships will please to observe, as I proceed, the nature of this pretended generosity in Mr. Hastings. He is always generous in the same way. As he offered the whole of his first bribe as his own money, and afterwards acknowledged, that no part of it was his own; so he is now generous again in this latter transaction, in which, however, he shows, that he is neither generous nor just. He took the first money without right; and he did not apply it to the very service, for which it was pretended to be taken. He then tells you of another anecdote, which, he says, has an affinity to that anecdote, and here he is generous again. In the first, he appears to be generous and just, because he appears to give his own money, which he had a right to dispose of; then he tells you, he is neither generous nor just; for he had taken money he

had no right to, and did not apply it to the service, for which he pretended to have received it. And now he is generous again, because he gives two lacks of his own money, and just, because he gives one lack, which belonged to the company; but there is not an idea suggested from whom he took it.

But to proceed, my lords; in this letter he tells you, he had given two-thirds his own money and one-third the company's money. So it stood upon the 29th of November 1780. On the 5th of January following we see the business take a totally different turn; and then Mr. Hastings calls for three company's bonds, upon two different securities, antedated to the first and second of October, for the three lacks, which he before told them was two-thirds his own money, and one-third the company's. He now declares the whole of it to be his own, and he thus applies by letter to the board, of which he himself was a majority. "Honourable sir and sirs, Having had occasion to disburse the sum of three lacks of sicca rupees on account of secret services, which having been advanced from my own private cash, I request that the same may be repaid to me in the following manner:

"A bond to be granted me upon the terms of the second loan, bearing date from 1st October, for one lack of sicca rupees.

"A bond to be granted me upon the terms of the first loan, bearing date from 1st October, for one lack of sicca rupees.

"A bond to be granted me upon the terms of the first loan, bearing date from the 2d October, for one lack of sicca rupees." Here are two accounts, one of which must be directly and flatly false; for he could not have given two-thirds his own, and have supplied the other third from money of the company's, and at the same time, have advanced the whole as his own. He here goes the full length of the fraud; he declares, that it is all his own, so much his own, that he does not trust the company with it, and actually takes their bonds as a security for it, bearing an interest to be paid to him when he thinks proper.

Thus it remained from the 5th of January 1781, till 16th December 1782, when this business takes another turn; and in a letter of his to the company these bonds become all their own. All the money advanced is now, all of it, the company's money. First, he says, two-thirds were his own: next, that the whole is his own: and the third account is, that the whole is the company's, and he will account to them for it.

Now, he has accompanied this account with another very curious one. For when you come to look into the particulars of it, you will find, there are three bonds declared to be the company's bonds, and which refer to the former transactions, namely, the money, for which he had taken the bonds: but when you come to look at the numbers of them, you will find, that one of the three bonds, which he had taken as his own, disappears; and another bond of another date and for a much larger sum is substituted in its place, of which he had never mentioned any thing whatever. So that taking his first account, that two-thirds is his own money; then, that it is all his own; in the third, that it is all the company's money; by a fourth account, given in a paper describing the three bonds, you will find, that there is one lack, which he does not account for, but substitutes, in its place, a bond before taken, as his own. He sinks and suppresses one bond; he gives two bonds to the company, and to supply the want of the third, which he suppresses, he brings forward a bond for another sum, of another date, which he had never mentioned before. Here then you have four different accounts: if any one of them is true, every one of the other three is totally false. Such a system of cogging, such a system of fraud, such a system of prevarication, such a system of falsehood, never was I believe before exhibited in the world.

In the first place, why did he take bonds at all from the company for the money, that was their own? I must be cautious how I charge a legal crime. I will not charge it to be forgery, to take a bond from the company for money, which was their own. He was employed to make out bonds for the company, to raise money on their credit. He pretends he lent them a sum of money, which was not his to lend; but he gives their own money to them as his own, and takes a security for it. I will not say, that it is a forgery, but I am sure it is an offence as grievous, because it is as much a cheat as a forgery, with this addition to it, that the person so cheating is in a trust; he violates that trust, and, in so doing, he defrauds and falsifies the whole system of the company's accounts.

I have only to show, what his own explanation of all these actions was; because, it supersedes all observation of mine. Hear what prevaricating guilt says for the falsehood, and delusion, which had been used to cover it; and see, how he plunges deeper and deeper upon every occasion. This explanation arose out of another memorable bribe, which I must now beg leave to state to your lordships.

About the time of the receipt of the former bribes, good fortune, as good things seldom come singly, is kind to him; and when he went up, and had nearly ruined the company's affairs in Oude and Benares, he received a present of £.100,000 sterling, or thereabouts. He received bills for it in September 1781: and he gives the company an account of it in January 1782. Remark in what manner the account of this money was given, and the purposes, for which he intends to apply it. He says, in this letter, "I received the offer of a considerable sum of money, both on the nabob's part, and that of his ministers, as a present to myself, not to the company: I accepted it without hesitation, and gladly, being entirely destitute both of means and credit, whether for your service or the relief of my own necessities." My lords, upon this you shall hear a comment, made by some abler persons than me. This donation was not made in species, but in bills upon the house of Gopaul Doss, who was then a prisoner in the hands of Cheit Sing. After mentioning, that he took this present for the company, and for their exigencies, and partly for his own necessities, and in consequence of the distress of both, he desires the company, in the moment of this their greatest distress, to award it to him, and therefore he ends, "If you should adjudge the deposit to me, I shall consider it as the most honourable approbation and reward of my labours; and I wish to owe my fortune to your bounty. I am now in the fiftieth year of my life: I have passed thirty-one years in the service of the company, and the greatest part of that time in employments of the highest trust. My conscience allows me boldly to claim the merit of zeal and integrity; nor has fortune been unpropitious to their exertions. To these qualities I bound my pretensions. I shall not repine, if you shall deem otherwise of my services; nor ought your decision, however it may disappoint my hope of a retreat, adequate to the consequence and elevation of the office, which I now possess, to lessen my gratitude for having been so long permitted to hold it, since it has at least enabled me to lay up a provision, with which I can be contented in a more humble station."

And here your lordships will be pleased incidentally to remark the circumstance of his condition of life, and his fortune, to which he appeals, and upon account of which he desires this money. Your lordships will remember, that in 1773, he said (and this I stated to you from himself) that if he held his then office for a very few years, he should be enabled to lay by an ample provision for his retreat. About nine years after that time, namely, in the month of January 1782, he finds himself rather pinched with want, but, however, not in so bad a way, but that the holding of his office had enabled him to lay up a provision, with which he could be contented in a more humble station. He wishes to have affluence; he wishes to have dignity; he wishes to have consequence and rank, but he allows, that he has competence. Your lordships will see afterwards how miserably his hopes were disappointed; for the court of directors, receiving this letter from Mr. Hastings, did declare, that they could not give it to him, because the act had ordered, "that no fees of office, perquisites, emoluments, or advantages whatsoever, should be accepted, received, or taken by such governour-general and council, or any of them, in any manner, or on any account or pretence whatsoever:" and as the same act further directs, "that no governour-general, or any of the council, shall directly take, accept, or receive, of or from any person or persons, in any manner, or on any account whatsoever, any present, gift, donation, gratuity, or reward, pecuniary or otherwise, or any promise or engagement for any present, gift, donation, gratuity, or reward;" we cannot, were we so inclined, decree the amount of this present to the governour-general. And it is further enacted, "that any such present, gift, gratuity, donation, or reward, accepted, taken or received, shall be deemed and construed to have been received to and for the sole use of the company." And therefore they resolved, most unjustly and most wickedly, to keep it to themselves. The act made it in the first instance the property of the company, and they would not give it him. And one should think this, with his own former construction of the act, would have made him cautious of taking bribes. You have seen what weight it had with him to stop the course of bribes, which he was in such a career of taking in every place, and with both hands.

Your lordships have now before you this hundred thousand pounds, disclosed in a letter from Patna, dated the 20th January 1782. You find mystery and concealment in every one of Mr. Hastings's discoveries; for, which is a curious part of it, this letter was not sent to the court of directors, in their packet, regularly, but transmitted by Major Fairfax, one of his agents, to Major Scott, another of his agents, to be delivered to the company. Why was this done? Your lordships will

judge, from that circuitous mode of transmission, whether he did not thereby intend to leave some discretion in his agent to divulge it or not. We are told, he did not, but your lordships will believe that or not, according to the nature of the fact. If he had been anxious to make this discovery to the directors, the regular way would have been to send his letter to the directors immediately in the packet; but he sent it in a box to an agent; and that agent, upon due discretion, conveyed it to the court of directors. Here, however, he tells you nothing about the persons, from whom he received this money, any more than he had done respecting the two former sums.

On the second of May following the date of this Patna letter he came down to Calcutta, with a mind, as he himself describes it, greatly agitated. All his hope of plundering Benares had totally failed. The produce of the robbing of the begums, in the manner your lordships have heard, was all dissipated to pay the arrears of the armies: there was no fund left. He felt himself agitated and full of dread, knowing, that he had been threatened with having his place taken from him several times; and that he might be called home to render an account. He had heard, that inquiries had begun in a menacing form in parliament; and though, at that time, Bengal was not struck at, there was a charge of bribery and peculation brought against the governour of Madras. With this dread, with a mind full of anxiety and perturbation, he writes a letter, as he pretends, on the 22d of May 1782. Your lordships will remark, that when he came down to Calcutta from his expedition up the country, he did not, till the 22d of May, give any account whatever of these transactions; and that this letter, or pretended letter, of the 22d of May was not sent till the 16th of December following. We shall clearly prove, that he had abundant means of sending it, and by various ways, before the 16th of December 1782, when he enclosed in another letter that of the 22d of May. This is the letter of discovery; this is the letter, by which his breast was to be laid open to his employers, and all the obscurity of his transactions to be elucidated. Here are indeed new discoveries, but they are like many new discovered lands, exceedingly inhospitable, very thinly inhabited, and producing nothing to gratify the curiosity of the human mind.

This letter is addressed to the honourable the court of directors, dated Fort William, 22d May 1782. He tells them he had promised to account for the ten lacks of rupees, which he had received, and this promise, he says, he now performs, and that he takes that opportunity of accounting with them likewise for several other sums, which he had received. His words are: "This promise I now perform, and deeming it consistent with the spirit of it, I have added such other sums as have been occasionally converted to the company's property through my means, in consequence of the like original destination. Of the second of these sums you have already been advised, in a letter, which I had the honour to address the honourable court of directors, dated 29th November 1780. Both this and the third article were paid immediately to the treasury, by my order to the sub-treasurer to receive them on the company's account, but never passed through my hands. The three sums, for which bonds were granted, were in like manner paid to the company's treasury, without passing through my hands, but their *application* was not specified. The sum of 50,000 current rupees was received while I was on my journey to Benares, and applied as expressed in the account.

"As to the manner, in which these sums have been expended, the reference, which I have made of it in the accompanying account, to the several accounts, in which they are credited, renders any other specification of it unnecessary; *besides*, that those accounts either have or will have received a much stronger authentication than any, that I could give to mine."

I wish your lordships to attend to the next paragraph, which is meant by him to explain, why he took bribes at all; why he took bonds for some of them, as moneys of his own, and not moneys of the company; why he entered some upon the company's accounts, and why of the others he renders no account at all. Light, however, will beam upon you, as we proceed. "Why these sums were taken by me; why they were, except the second, quietly transferred to the company's use; why bonds were taken for the first, and not for the rest, might, were this matter exposed to the view of the public, furnish a variety of conjectures to which it would be of little use to reply. Were your honourable court to question me on these points, I would answer, that the sums were taken for the company's benefit, at times, when the company very much needed them: that I either chose to conceal the first receipts from public curiosity by receiving bonds for the amount, or possibly acted without any studied design, which my memory could at this distance of time verify: and that I did not

think it worth my care to observe the same means with the rest. I trust, honourable sirs, to your breasts for a candid interpretation of my actions; and assume the freedom to add, that I think myself, on such a subject, on such *an occasion*, entitled to it." Lofty, my lords! You see, that after the directors had expected an explanation for so long a time, he says, Why these sums were taken by me, and, except the second, quietly transferred to the company's use, I cannot tell; why bonds were taken for the first, and not for the rest, I cannot tell; if this matter were exposed to view, it would furnish a variety of conjectures. Here is an account, which is to explain the most obscure, the most mysterious, the most evidently fraudulent transactions. When asked, how he came to take these bonds, how he came to use these frauds, he tells you, he really does not know; that he might have this motive for it, that he might have another motive for it, that he wished to conceal it from public curiosity; but, which is the most extraordinary, he is not quite sure, that he had any motive for it at all, which his memory can trace. The whole of this is a period of a year and an half; and here is a man, who keeps his account upon principles of whim and vagary. One would imagine he was guessing at some motive of a stranger. Why he came to take bonds for money not due to him; and why he enters some, and not others, he knows nothing of these things: he begs them not to ask about it, because it will be of no use. You, foolish court of directors, may conjecture and conjecture on. You are asking me, why I took bonds to myself for money of yours, why I have cheated you, why I have falsified my account in such a manner. I will not tell you.

In the satisfaction, which he had promised to give them, he neither mentions the persons, the times, the occasions, or motives for any of his actions. He adds, "I did not think it worth my care to observe the same means with the rest." For some purposes, he thought it necessary to use the most complicated and artful concealments; for some, he could not tell what his motives were, and, for others, that it was mere carelessness. Here is the exchequer of bribery! Have I falsified any part of my original stating of it? an exchequer, in which the man, who ought to pay, receives; the man, who ought to give security, takes it; the man, who ought to keep an account, says, he has forgotten; an exchequer, in which oblivion was the remembrancer: and to sum up the whole, an exchequer, into the accounts of which, it was useless to inquire. This is the manner, in which the account of near two hundred thousand pounds is given to the court of directors. You can learn nothing in this business, that is any way distinct, except a premeditated design of a concealment of his transactions. That is avowed.

But there is a more serious thing behind. Who were the instruments of his concealment? No other, my lords, than the company's public accountant. That very accountant takes the money, knowing it to be the company's, and that it was only pretended to be advanced by Mr. Hastings for the company's use. He sees Mr. Hastings make out bonds to himself for it, and Mr. Hastings makes him enter him as creditor, when in fact he was debtor. Thus he debauches the company's accountant, and makes him his confederate. These fraudulent and corrupt acts, covered by false representations, are proved to be false, not by collation with any thing else, but false by a collation with themselves. This then is the account and his explanation of it; and in this insolent, saucy, careless, negligent manner a public accountant, like Mr. Hastings, a man bred up a book-keeper in the company's service, who ought to be exact, physically exact in his account, has not only been vicious in his own account, but made the public accounts vicious and of no value. But there is in this account another curious circumstance with regard to the deposit of this sum of money, to which he referred, in his first paragraph of his letter of the 29th of November 1780. He states, that this deposit was made and passed into the hands of Mr. Larkins on the first of June. It did so; but it is not entered in the company's accounts till November following. Now in all that intermediate space where was it? What account was there of it? It was entirely a secret between Mr. Larkins and Mr. Hastings, without a possibility of any one discovering any particular relative to it. Here is an account of two hundred thousand pounds received, juggled between the accountant and him, without a trace of it appearing in the company's books. Some of those committees, to whom, for their diligence at least, I must say the public have some obligation, and in return for which they ought to meet with some indulgence, examining into all these circumstances, and having heard, that Mr. Hastings had deposited a sum of money in the hands of the company's sub-treasurer in the month of June, sent for the company's books. They looked over those books, but they did not find the least trace of any such sum of money, and not any

account of it; nor could there be, because it was not paid to the company's account till the November following. The accountant had received the money, but never entered it from June till November. Then at last have we an account of it. But was it even then entered regularly upon the company's accounts? No such thing; it is a deposit carried to the governour-general's credit. [*The entry of the several species, in which this deposit was made, was here read from the company's general journal of* 1780 *and* 1781.]

My lords, when this account appears at last, when this money does emerge in the public accounts, whose is it? Is it the company's? No, Mr Hastings's. And thus, if, notwithstanding this obscure account in November, the directors had claimed and called for this affinity to an anecdote; if they had called for this anecdote, and examined the account; if they had said, We observe here entered two lacks and upwards; come, Mr. Hastings, let us see where this money is: they would find that it is Mr. Hastings's money, not the company's: they would find that it is carried to his credit. In this manner he hands over this sum, telling them, on the 22d of May 1782, that not only the bonds were a fraud, but the deposit was a fraud; and that neither bonds, nor deposit, did in reality belong to him. Why did he enter it at all? then, afterwards, why did he not enter it as the company's? Why make a false entry, to enter it as his own? and how came he, two years after, when he does tell you that it was the company's and not his own, to alter the public accounts? But why did he not tell them at that time, when he pretends to be opening his breast to the directors, from whom he received it, or say any thing to give light to the company respecting it? who, supposing they had the power of dispensing with an act of parliament, or licensing bribery at their pleasure, might have been thereby enabled to say—here, you ought to have received it—there it might be oppressive and of dreadful example.

I have only to state, that in this letter, which was pretended to be written on the 22d of May 1782, your lordships will observe, that he thinks it his absolute duty (and I wish to press this upon your lordships, because it will be necessary in a comparison which I shall have hereafter to make,) to lay open all their affairs to them, to give them a full and candid explanation of his conduct, which he afterwards confesses he is not able to do. The paragraph has been just read to you. It amounts to this: I have taken many bribes—have falsified your accounts—have reversed the principle of them in my own favour; I now discover to you all these my frauds, and think myself entitled to your confidence upon this occasion. Now all the principles of diffidence; all the principles of distrust; nay more, all the principles, upon which a man may be convicted of premeditated fraud, and deserve the severest punishment, are to be found in this case, in which, he says, he holds himself to be entitled to their confidence and trust. If any of your lordships had a steward, who told you he had lent you your own money, and had taken bonds from you for it, and if he afterwards told you, that that money was neither yours nor his, but extorted from your tenants by some scandalous means; I should be glad to know what your lordships would think of such a steward, who should say, I will take the freedom to add, that I think myself, on such a subject, on such an occasion, entitled to your confidence and trust. You will observe his cavalier mode of expression. Instead of his exhibiting the rigour and severity of an accountant and a book-keeper, you would think that he had been a reader of sentimental letters: there is such an air of a novel running through the whole, that it adds to the ridicule and nausea of it: it is an oxymel of squills; there is something to strike you with horrour for the villany of it, something to strike you with contempt for the fraud of it; and something to strike you with utter disgust for the vile and bad taste, with which all these base ingredients are assorted.

Your lordships will see, when the account, which is subjoined to this unaccountable letter, comes before you, that though the company had desired to know the channels, through which he got those sums, there is not (except by a reference that appears in another place to one of the articles) one single syllable of explanation given from one end to the other; there is not the least glimpse of light thrown upon these transactions. But we have since discovered from whom he got these bribes; and your lordships will be struck with horrour when you hear it.

I have already remarked to you, that though this letter is dated upon the 22d of May, it was not despatched for Europe till December following; and he gets Mr. Larkins, who was his agent and instrument in falsifying the company's accounts, to swear, that this letter was written upon the 22d of May, and that he had no opportunity to send it, but by the Lively in December. On the 16th of that month, he

writes to the directors, and tells them, that he is quite shocked to find he had no earlier opportunity of making this discovery, which he thought himself bound to make, though this discovery, respecting some articles of it, had now been delayed nearly two years, and though it since appears that there were many opportunities, and particularly by the Resolution, of sending it. He was much distressed, and found himself in an awkward situation, from an apprehension that the parliamentary inquiry, which, he knew, was at this time in progress, might have forced from him this notable discovery. He says, "I do not fear the consequences of any parliamentary process." Indeed he needed not to fear any parliamentary inquiry, if it produced no further discovery than that which your lordships have in the letter of the 22d of May, and in the accounts subjoined to it. He says, that "the delay is of no public consequence; but it has produced a situation, which, with respect to myself, I regard as unfortunate, because it exposes me to the meanest imputation, from the occasion which the late parliamentary inquiries have since furnished."

Now, here is a very curious letter, that I wish to have read for some other reasons, which will afterwards appear, but principally at present for the purpose of showing you, that he held it to be his duty, and thought it to the last degree dishonourable, not to give the company an account of those secret bribes: he thought it would reflect upon him and ruin his character for ever, if this account did not come voluntarily from him, but was extorted by terror of parliamentary inquiry. In this letter of the 16th December 1782, he thus writes:—"The delay is of no public consequence; but it has produced a situation, which, with respect to myself, I regard as unfortunate; because it exposes me to the meanest imputation, from the occasion, which the late parliamentary inquiries have since furnished, but which were unknown when my letter was written, and written in the necessary consequence of a promise, made to that effect in a former letter to your honourable committee, dated 20th January last. However, to preclude the possibility of such reflections from affecting me, I have desired Mr. Larkins, who was privy to the whole transactions, to affix to the letter his affidavit of the date in which it was written. I own I feel most sensibly the mortification of being reduced to the necessity of using such precautions to guard my reputation from dishonour. If I had, at any time, possessed that degree of confidence from my immediate employers, which they never withheld from the meanest of my predecessors, I should have disdained to use these attentions. How I have drawn on me a different treatment, I know not; it is sufficient that I have not merited it. And in the course of a service of thirty-two years, and ten of these employed in maintaining the powers, and discharging the duties of the first office of the British government in India, that honourable court ought to know whether I possess the integrity and honour, which are the first requisites of such a station. If I wanted these, they have afforded me but too powerful incentives to suppress the information, which I now convey to them through you; and to appropriate to my own use the sums, which I have already passed to their credit, by the unworthy, and, pardon me if I add, dangerous reflections, which they have passed upon me, for the first communication of this kind; and your own experience will suggest to you, that there are persons, who would profit by such a warning.

"Upon the whole of these transactions, which to you, who are accustomed to view business in an official and regular light, may appear unprecedented, if not improper, I have but a few short remarks to suggest to your consideration.

"If I appear in any unfavourable light by these transactions, I resign the common and legal security of those, who commit crimes or errours. I am ready to answer every particular question, that may be put against myself, upon honour, or upon oath.

"The sources, from which these reliefs to the public service have come, would never have yielded them to the company publicly; and the exigencies of your service (exigencies created by the exposition of your affairs, and faction in your councils) required those supplies.

"I could have concealed them, had I had a wrong motive, from yours and the public eye for ever; and I know that the difficulties, to which a spirit of injustice may subject me for my candour and avowal, are greater than any possible inconvenience, that could have attended the concealment, except the dissatisfaction of my own mind. These difficulties are but a few of those which I have suffered in your service. The applause of my own breast is my surest reward, and was the support of my mind in meeting them. Your applause, and that of my country, are my next wish in life."

Your lordships will observe, at the end of this letter, that this man declares his first applause to be from his own breast, and that he next wishes to have the applause of his employers.

But reversing this, and taking their applause first, let us see on what does he ground his hope of their applause? Was it on his former conduct? No, for he says, that conduct had repeatedly met with their disapprobation. Was it upon the confidence, which he knew they had in him? No, for he says, they gave "more of their confidence to the meanest of his predecessors." Observe, my lords, the style of insolence he constantly uses with regard to all mankind. Lord Clive was his predecessor: Governour Cartier was his predecessor: Governour Verelst was his predecessor: every man of them as good as himself; and yet, he says, the directors had given "more of their confidence to the *meanest* of his predecessors." But what was to entitle him to their applause? a clear and full explanation of the bribes he had taken. Bribes was to be the foundation of their confidence in him, and the clear explanation of them was to entitle him to their applause! Strange grounds to build confidence upon—the rotten ground of corruption, accompanied with the infamy of its avowal! Strange ground to expect applause—a discovery, which was no discovery at all! Your lordships have heard this discovery, which I have not taken upon me to state, but have read his own letter on the occasion. Has there, at this moment, any light broken in upon you concerning this matter.

But what does he say to the directors? he says, "Upon the whole of these transactions, which to you, who are accustomed to view business in an official and regular light, may appear unprecedented, if not improper, I have but a few short remarks to suggest to your consideration." He looks upon them, and treats them, as a set of low mechanical men; a set of low-born book-keepers, as base souls, who, in an account, call for explanation and precision. If there is no precision in accounts, there is nothing of worth in them. You see, he himself is an eccentric accountant, a pindaric book-keeper, an arithmetician in the clouds. I know, he says, what the directors desire: but they are mean people; they are not of elevated sentiments: they are modest; they avoid ostentation in taking of bribes: I therefore am playing cups and balls with them, letting them see a little glimpse of the bribes, then carrying them fairly away. Upon this he founds the applause of his own breast.

——Populus me sibilat; at mihi plaudo
Ipse domi, simul ac nummos contemplor in arca.

That private *Ipse plaudo* he may have in this business, which is a business of money; but the applause of no other human creature will he have for giving such an account as he admits this to be—irregular, uncertain, problematical, and of which no one can make either head or tail. He despises us also, who are representatives of the people, and have among us all the regular officers of finance, for expecting any thing like a regular account from him. He is hurt at it; he considers it as a cruel treatment of him; he says, Have I deserved this treatment? Observe, my lords, he had met with no treatment, if treatment it may be called, from us of the kind, of which he complains. The court of directors had, however, in a way, shameful, abject, low, and pusillanimous, begged of him, as if they were his dependants, and not his masters, to give them some light into the account; they desire a receiver of money to tell from whom he received it, and how he applied it. He answers, They may be hanged for a parcel of mean contemptible book-keepers, and that he will give them no account at all: he says—"If you sue me"—There is the point; he always takes security in a court of law. He considers his being called upon by these people, to whom he ought, as a faithful servant, to give an account, and to do which he was bound by an act of parliament specially intrusting him with the administration of the revenues, as a gross affront. He adds, that he is ready to resign his defence, and to answer upon honour, or upon oath. Answering upon honour is a strange way they have got in India, as your lordships may see in the course of this inquiry. But he forgets, that being the company's servant, the company may bring a bill in chancery against him, and force him upon oath to give an account. He has not, however, given them light enough, or afforded them sufficient ground for a fishing bill in chancery. Yet, he says, If you call upon me in a chancery way, or by common law, I really will abdicate all forms, and give you some account. In consequence of this the company did demand from him an account, regularly and as fully and formally as if they had demanded it in a court of justice. He positively refused to give them any account whatever; and they have never to this very day in which we speak, had any account, that is at all clear or satisfactory. Your lordships will see, as I go through this scene of fraud, falsification, iniquity, and prevarication, that in defiance of his promise, which promise they quote upon him over and over again, he has never given them any account of this matter.

He goes on to say, (and the threat is indeed

alarming) that by calling him to account they may provoke him—to what? "To appropriate," he says, "to my own use, the sums, which I have already passed to your credit, by the unworthy, and, pardon me, if I add, dangerous reflections, which you have passed upon me for the first communication of this kind." They passed no reflections: they said they would neither praise nor blame him, but pressed him for an account of a matter, which they could not understand; and, I believe, your lordships understand it no more than they, for it is not in the compass of human understanding to conceive or comprehend it. Instead of an account of it, he dares to threaten them—I may be tempted, if you should provoke me, not to be an honest man—to falsify your account a second time, and to reclaim those sums, which I have passed to your credit: to alter the account again by the assistance of Mr. Larkins. What a dreadful declaration is this of his dominion over the public accounts, and of his power of altering them; a declaration, that, having first falsified those accounts in order to deceive them, and afterwards having told them of this falsification in order to gain credit with them; if they provoke him, he shall take back the money he had carried to their account, and make them his debtors for it. He fairly avows the dominion he has over the company's accounts; and therefore, when he shall hereafter plead the accounts, we shall be able to rebut that evidence, and say, The company's accounts are corrupted by you through your agent, Mr. Larkins, and we give no credit to them, because you not only told the company you could do so, but we can prove that you have actually done it. What a strange medley of evasion—pretended discovery, real concealment, fraud and prevarication appears in every part of this letter!

But admitting this letter to have been written upon the 22d of May, and kept back to the 16th of December, you would imagine, that during all that interval of time, he would have prepared himself to give some light, some illustration of these dark and mysterious transactions, which carried fraud upon the very face of them. Did he do so? Not at all. Upon the 16th of December, instead of giving them some such clear accounts as might have been expected, he falls into a violent passion for their expecting them: he tells them it would be dangerous; and he tells them they knew who had profited by these transactions; thus, in order to strike terrour into their breasts, hinting at some frauds which they had practised or protected. What weight this may have had with them I know not; but your lordships will expect in vain that Mr. Hastings, after giving four accounts, if any one of which is true the other three must necessarily be false—after having thrown the company's accounts into confusion, and being unable to tell, as he says himself, why he did so—will at last give some satisfaction to the directors, who continued, in a humble meek way, giving him hints that he ought to do it. You have heard nothing yet but the consequences of their refusing to give him the present of an hundred thousand pounds, which he had taken from the nabob: they did right to refuse it to him; they did wrong to take it to themselves.

We now find Mr. Hastings on the river Ganges in September 1784: that Ganges whose purifying water expiates so many sins of the Gentoos, and which, one would think, would have washed Mr. Hastings's hands a little clean of bribery, and would have rolled down its golden sands like another Pactolus. Here we find him discovering another of his bribes. This was a bribe taken upon totally a different principle, according to his own avowal: it is a bribe not pretended to be received for the use of the company; a bribe taken absolutely entirely for himself. He tells them, that he had taken between thirty and forty thousand pounds. This bribe, which, like the former, he had taken without right, he tells them that he intends to apply to his own purposes, and he insists upon their sanction for so doing. He says, he had in vain, upon a former occasion, appealed to their honour, liberality, and generosity; that he now appeals to their justice; and insists upon their decreeing this bribe, which he had taken, without telling them from whom, where, or on what account, to his own use.

Your lordships remember, that in the letter, which he wrote from Patna on the 20th of January 1782, he there states, that he was in tolerable good circumstances, and that this had arisen from his having continued long in their service; now, he had continued two years longer in their service, and he is reduced to beggary! "This," he says, "is a single example of a life spent in the accumulation of crores for your benefit, and doomed, in its close, to suffer the extremity of private want, and to sink in obscurity."

So far back as in 1773, he thought that he could save an exceeding good fortune out of his place. In 1782 he says with gratitude, that he has made a decent private competency, but in two years after he sunk to the extremity of private want. And how does he seek to re-

lieve that want? by taking a bribe: Bribes are no longer taken by him for the company's service, but for his own. He takes the bribe with an express intention of keeping it for his own use, and he calls upon the company for their sanction. If the money was taken without right, no claim of his could justify its being appropriated to himself; nor could the company so appropriate it, for no man has a right to be generous out of another's goods. When he calls upon their justice and generosity, they might answer, If you have a just demand upon our treasury, state it, and we will pay it: if it is a demand upon our generosity, state your merits, and we will consider them. But I have paid myself by a bribe; I have taken another man's money; and I call upon your justice—to do what? To restore it to its owner? no; to allow me to keep it myself. Think, my lords, in what a situation the company stands. I have done a great deal for you: this is the jackall's portion; you have been the lion; I have been endeavouring to prog for you; I am your bribe-pander, your factor of corruption, exposing myself to every kind of scorn and ignominy, to insults, even from you. I have been preying and plundering for you, I have gone through every stage of licentiousness and lewdness, wading through every species of dirt and corruption for your advantage. I am now sinking into the extremity of private want; do give me this—what? money? no, this bribe; rob me the man who gave me this bribe; vote me—what? money of your own? that would be generous: money you owe me? that would be just; No, money, which I have extorted from another man, and I call upon your justice to give it me. This is his idea of justice. He says, "I am compelled to depart from that liberal plan, which I originally adopted, and to claim from your justice (for you have forbid me to appeal to your generosity) the discharge of a debt, which I can with the most scrupulous integrity aver to be justly due, and which I cannot sustain." Now, if any of the company's servants may say, I have been extravagant—profuse—it was all meant for your good: let me prey upon the country at my pleasure; license my bribes, frauds, and peculations, and then you do me justice. What country are we in, where these ideas are ideas of generosity and justice?

It might naturally be expected, that in this letter he would have given some account of the person, from whom he had taken this bribe. But here, as in the other cases, he had a most effectual oblivion; the Ganges, like Lethe, causes a drowsiness, as you saw in Mr. Middleton; they recollect nothing, they know nothing. He has not stated from that day to this, from whom he took that money: but we have made the discovery. And such is the use of parliamentary inquiries, such, too, both to the present age and posterity, will be their use, that, if we pursue them with the vigour which the great trust justly imposed upon us demands, and if your lordships do firmly administer justice upon this man's frauds, you will at once put an end to those frauds and prevarications for ever. Your lordships will see, that, in this inquiry, it is the diligence of the House of Commons, which he has the audacity to call *malice*, that has discovered and brought to light the frauds, which we shall be able to prove against him.

I will now read to your lordships an extract from that stuff, called a defence, which he has either written himself, or somebody else has written for him, and which he owns, or disclaims, just as he pleases; when under the slow tortures of a parliamentary impeachment he discovered, at length, from whom he got this last bribe. "The last part of the charge states, that in my letter to the court of directors of the 21st February 1784, I have confessed to have received another sum of money, the amount of which is not declared, but which, from the application of it, could not be less than thirty-four thousand pounds sterling, &c. In the year 1783, when I was actually in want of a sum of money for my private expenses, owing to the company not having at that time sufficient cash in their treasury to pay my salary, I borrowed three lacks of rupees of rajah Nobkissen, an inhabitant of Calcutta, whom I desired to call upon me with a bond properly filled up; he did so, but at the time I was going to execute it he entreated I would rather accept the money than execute the bond. I neither accepted the offer nor refused it; and my determination upon it remained suspended between the alternative of keeping the money as a loan to be repaid, and of taking it, and applying it, as I had done other sums, to the company's use; and there the matter rested till I undertook my journey to *Lucknow*, when I determined to accept the money for the company's use; and these were my motives: Having made disbursements from my own cash for services, which, though required to enable me to execute the duties of my station, I had hitherto omitted to enter into my public account; I resolved to reimburse myself in a mode most suitable to the situation of the company's affairs, by charging these disbursements in my dubar accounts of

the present year, and crediting them by a sum privately received, which was this of Nobkissen's. If my claim on the company were not founded in justice, and *bona fide* due, my acceptance of three lacks of rupees from Nobkissen by no means precludes them from recovering that sum from me. No member of this honourable House suspects me, I hope, of the meanness and guilt of presenting false accounts." We do not *suspect* him of presenting false accounts: we can prove, we are now radically proving, that he presents false accounts. We suspect no man, who does not give ground for suspicion: we accuse no man, who has not given ground for accusation; and we do not attempt to bring before a court of justice any charges, which we shall not be able decisively to prove. This will put an end to all idle prattle of malice, of groundless suspicions of guilt, and of ill-founded charges. We come here to bring the matter to the test, and here it shall be brought to the test between the Commons of Great Britain and this East-India delinquent. In his letter of the 21st of February 1784, he says, he has never benefited himself by contingent accounts; and as an excuse for taking this bribe from Nobkissen, which he did not discover at the time, but many years afterwards at the bar of the House of Commons, he declares, that he wanted to apply it to the contingent account for his expenses, that is, for what he pretended to have laid out for the company during a great number of years. He proceeds, "If it should be objected, that the allowance of these demands would furnish a precedent for others of the like kind, I have to remark that in their whole amount they are but the aggregate of a contingent account of twelve years; and if it were to become the practice of those, who have passed their prime of life in your service, and filled, as I have filled it, the first office of your dominion, to glean from their past accounts all the articles of expense, which their inaccuracy or indifference hath overlooked, your interests would suffer infinitely less by the precedent than by a single example of a life spent in the accumulation of crores for your benefit, and doomed in its close to suffer the extremity of private want, and to sink in obscurity." Here is the man, that has told us at the bar of the House of Commons, that he never made up any contingent accounts; and yet, as a set-off against this bribe, which he received for himself, and never intended to apply to the current use of the company, he feigns and invents a claim upon them, namely, that he had, without any authority of the company, squandered away in stationary, and budgerows, and other idle services, a sum amounting to £.34,000. But was it for the company's service? Is this language to be listened to? Every thing I thought fit to expend, I have expended for the company's service. I intended, indeed, at that time, to have been generous. I intended, out of my own pocket, to have paid for a translation of the code of Gentoo laws: I was then in the prime of my life, flowing in money and had great expectations: I am now old; I cannot afford to be generous: I will look back into all my former accounts, pen, ink, wax, every thing, that I generously or prodigally spent, as my own humour might suggest; and though, at the same time, I know you have given me a noble allowance, I now make a charge upon you for this sum of money, and intend to take a bribe in discharge of it. Now, suppose Lord Cornwallis, who sits in the seat, and I hope will long and honourably and worthily fill the seat, which that gentleman possessed; suppose Lord Cornwallis, after never having complained of the insufficiency of his salary, and after having but two years ago said he had saved a sufficient competency out of it, should not tell you that £.30,000 a year was not enough for him, and that he was sinking into want and distress, and should justify, upon that alleged want, taking a bribe, and then make out a bill of contingent expenses to cover it; would your lordships bear this?

Mr. Hastings has told you, that he wanted to borrow money for his own use, and that he applied to rajah Nobkissen, who generously pressed it upon him as a gift. Rajah Nobkissen is a banyan; you will be astonished to hear of generosity in a banyan: there never was a banyan and generosity united together; but Nobkissen loses his banyan qualities at once the moment the light of Mr. Hastings's face beams upon him. Here, says Mr. Hastings, I have prepared bonds for you! Astonishing! how can you think of the meanness of bonds: you call upon me to lend you £.34,000, and propose bonds: No, you shall have it; you are the governour-general, who have a large and ample salary; but I know you are a generous man, and I emulate your generosity: I give you all this money. Nobkissen was quite shocked at Mr. Hastings's offering him a bond. My lords, a Gentoo banyan is a person a little lower, a little more penurious, a little more exacting, a little more cunning, a little more money-making, than a Jew. There is not a Jew in the meanest corner of Duke's-place in London, that is so crafty, so much a usurer, so skilful how to turn money to profit,

and so resolved not to give any money, but for profit, as a Gentoo broker of the class I have mentioned. But this man, however, at once grows generous, and will not suffer a bond to be given to him; and Mr. Hastings, accordingly, is thrown into very great distress. You see sentiment always prevailing in Mr. Hastings. The sentimental dialogue, which must have passed between him and a Gentoo broker, would have charmed every one, that has a taste for pathos and sentiment. Mr. Hastings was pressed to receive the money as a gift—he really does not know what to do, whether to insist upon giving a bond or not: whether he shall take the money for his own use, or whether he shall take it for the company's use. But it may be said of man, as it is said of woman; the woman, who deliberates, is lost. The man, that deliberates about receiving bribes, is gone; the moment he deliberates, that moment his reason, the fortress, is lost—the walls shake; down it comes, and at the same moment enters Nobkissen into the citadel of his honour and integrity, with colours flying, with drums beating; and Mr. Hastings's garrison goes out, very handsomely indeed, with the honours of war, all for the benefit of the company. Mr. Hastings consents to take the money from Nobkissen; Nobkissen gives the money, and is perfectly satisfied.

Mr. Hastings took the money with a view to apply it the company's service: How? to pay his own contingent bills. Every thing that I do, says he, and all the money I squander, is all for the company's benefit. As to particulars of accounts, never look into them; they are given you upon honour: let me take this bribe, it costs you nothing to be just or generous. I take the bribe: you sanctify it. But in every transaction of Mr. Hastings, where we have got a name, there we have got a crime. Nobkissen gave him the money, and did not take his bond, I believe, for it; but Nobkissen, we find, immediately afterwards enters upon the stewardship or management of one of the most considerable districts in Bengal. We know very well, and shall prove to your lordships, in what manner such men rack such districts, and exact from the inhabitants the money to repay themselves for the bribes, which had been taken from them. These bribes are taken under a pretence of the company's service; but sooner or later they fall upon the company's treasury. And we shall prove that Nobkissen, within a year from the time when he gave this bribe, had fallen into arrears to the company, as their steward, to the amount of a sum, the very interest of which, according to the rate of interest in that country, amounted to more than this bribe, taken, as was pretended, for the company's service. Such are the consequences of a banyan's generosity, and of Mr. Hastings's gratitude, so far as the interest of the country is concerned; and this is a good way to pay Mr. Hastings's contingent accounts. But this is not all; a most detestable villain is sent up into the country to take the management of it, and the fortunes of all the great families in it are given entirely into his power. This is the way, by which the company are to keep their own servants from falling into "the extremity of private want." And the company itself, in this pretended saving to their treasury by the taking of bribes, lose more than the amount of the bribes received. Wherever a bribe is given on one hand, there is a balance accruing on the other. No man, who had any share in the management of the company's revenues, ever gave a bribe, who did not either extort the full amount of it from the country, or else fall in balance to the company to that amount, and frequently both. In short, Mr. Hastings never was guilty of corruption, that blood and rapine did not follow; he never took a bribe, pretended to be for their benefit, but the company's treasury was proportionably exhausted by it.

And now was this scandalous and ruinous traffic in bribes brought to light by the court of directors? No, we got it in the House of Commons. These bribes appear to have been taken at various times, and upon various occasions; and it was not till his return from Patna in February 1782, that the first communication of any of them was made to the court of directors. Upon the receipt of this letter, the court of directors wrote back to him, requiring some further explanation upon the subject. No explanation was given, but a communication of other bribes was made in his letter, said to be written in May of the same year, but not despatched to Europe till the December following. This produced another requisition from the directors for explanation. And here your lordships are to observe, that this correspondence is never in the way of letters written and answers given; but he and the directors are perpetually playing at hide and seek with each other, and writing to each other at random; Mr. Hastings making a communication one day, the directors requiring an explanation the next; Mr. Hastings giving an account of another bribe on the third day, without giving any explanation of the former. Still, however, the directors are pursuing their chase. But it was not till they learned

that the committees of the House of Commons (for committees of the House of Commons had then some weight,) were frowning upon them for this collusion with Mr. Hastings, that at last some honest men in the direction were permitted to have some ascendency; and that a proper letter was prepared, which I shall show your lordships, demanding from Mr. Hastings an exact account of all the bribes that he had received; and painting to him, in colours as strong at least as those I use, his bribery, his frauds, and peculations; and, what does them great honour for that moment, they particularly direct that the money, which was taken from the nabob of Oude, should be carried to his account.

These paragraphs were prepared by the committee of correspondence, and as I understand, approved by the court of directors, but never were sent out to India. However, something was sent, but miserably weak and lame of its kind; and Mr. Hastings never answered it, or gave them any explanation whatever. He now being prepared for his departure from Calcutta, and having finished all his other business, went up to Oude upon a chase, in which just now we cannot follow him. He returned in great disgust to Calcutta, and soon after set sail for England, without ever giving the directors one word of the explanation, which he had so often promised, and they had repeatedly asked.

We have now got Mr. Hastings in England, where you will suppose some satisfactory account of all these matters would be obtained from him. One would suppose, that on his arrival in London, he would have been a little quickened by a menace, as he expresses it, which had been thrown out against him in the House of Commons, that an inquiry would be made into his conduct; and the directors, apprehensive of the same thing, thought it good gently to insinuate to him by a letter, written by whom and how we do not know, that he ought to give some explanation of these accounts. This produced a letter, which I believe in the business of the whole world cannot be paralleled; not even himself could be his parallel in this. Never did inventive folly, working upon conscious guilt, and throwing each other totally in confusion, ever produce such a false, fraudulent, prevaricating letter as this, which is now to be given to you.

You have seen him at Patna, at Calcutta, in the country, on the Ganges; now you see him at the waters at Cheltenham; and you will find his letter from that place to comprehend the substance of all his former letters, and to be a digest of all the falsity, fraud, and nonsense, contained in the whole of them. Here it is, and your lordships will suffer it to be read.

I must beg your patience; I must acknowledge that it has been the most difficult of all things to explain, but much more difficult to make pleasant and not wearisome, falsity and fraud pursued through all its artifices; and therefore, as it has been the most painful work to us to unravel fraud and prevarication, so there is nothing that more calls for the attention, the patience, the vigilance, and the scrutiny of an exact court of justice. But as you have already had almost the whole of the man, do not think it too much to hear the rest in this letter from Cheltenham. It is dated Cheltenham, 11th of July 1785, addressed to William Devaynes, Esq.;* and it begins thus: "Sir, The honourable court of directors, in their general letter to Bengal, by the Surprize, dated the 16th of March 1784, were pleased to express their desire, that I should inform them of the periods when each sum of the presents mentioned in my address of the 22d May 1782, was received; what were my motives for withholding the several receipts from the knowledge of the council, or of the court of directors; and what were my reasons for taking bonds for part of these sums, and for paying other sums into the treasury as deposits, on my own account." I wish your lordships to pause a moment. Here is a letter written in July 1785; you see that from the 29th of December 1780, till that time, during which interval, though convinced in his own conscience, and though he had declared his own opinion, of the necessity of giving a full explanation of these money transactions, he had been imposing upon the directors false and prevaricating accounts of them, they were never able to obtain a full disclosure from him.

He goes on. "I have been kindly apprized that the information required as above, is yet expected from me. I hope that the circumstances of my past situation, when considered, will plead my excuse for having thus long withheld it. The fact is, that I was not at the presidency when the Surprize arrived; and when I returned to it, my time and attention were so entirely engrossed, to the day of my final departure from it, by a variety of other more important occupations, of which, sir, I may safely appeal to your testimony, grounded on the large portion contributed by myself of the volumes which compose our consultations of that period."

* See this letter in the Appendix.

These consultations, my lords, to which he appeals, form matter of one of the charges, that the Commons have brought against Mr. Hastings; namely, a fraudulent attempt to ruin certain persons employed in subordinate situations under him, for the purpose, by intruding himself into their place, of secretly carrying on his own transactions. These volumes of consultation were written to justify that act. He next says, "The submission, which my respect would have enjoined me to pay to the command imposed on me, was lost to my recollection perhaps from the stronger impression, which the first and distant perusal of it had left on my mind, that it was rather intended as a reprehension for something, which had given offence in my report of the original transaction, than an expression of any want of a further elucidation of it." Permit me to make a few remarks upon this extraordinary passage. A letter is written to him, containing a repetition of the request, which had been made a thousand times before, and with which he had as often promised to comply. And here he says, "it was lost to my recollection." Observe his memory; he can forget the command, but he has an obscure recollection that he thought it a reprehension rather than a demand! Now a reprehension is a stronger mode of demand. When I say to a servant, Why have you not given me the account, which I have so often asked for? is he to answer, The reason I have not given it, is because I thought you were railing at and abusing me? He goes on, "I will now endeavour to reply to the different questions, which have been stated to me, in as explicit a manner as I am able; to such information as I can give, the honourable court is fully entitled; and where that shall prove defective, I will point out the only means, by which it may be rendered more complete." In order that your lordships may thoroughly enter into the spirit of this letter, I must request that you will observe, how handsomely and kindly these tools of directors have expressed themselves to him; and that even their baseness and subserviency to him were not able to draw from him any thing, that could be satisfactory to his enemies; for as to these his friends, he cares but little about satisfying them, though they call upon him in consequence of his own promise; and this he calls a reprehension. They thus express themselves: "Although it is not our intention to express any doubt of the integrity of the governour-general; on the contrary, after having received the presents, we cannot avoid expressing our approbation of his conduct, in bringing them to the credit of the company, yet we must confess the statement of those transactions appears to us in many points so unintelligible, that we feel ourselves under the necessity of calling on the governour-general for an explanation, agreeable to his promise, voluntarily made to us. We therefore desire to be informed of the different periods when each sum was received, and what were the governour-general's motives for withholding the several receipts from the knowledge of the council and of the court of directors, and what were his reasons for taking bonds for part of these sums, and paying other sums into the treasury as deposits upon his own account." Such is their demand, and this is what his memory furnishes as nothing but a reprehension. He then proceeds: "First, I believe I can affirm with certainty, that the several sums mentioned in the account transmitted with my letter above-mentioned, were received at or within a very few days of the dates, which are affixed to them in the account. But as this contains only the gross sums, and each of these was received in different payments, though at no great distance of time, I cannot therefore assign a great degree of accuracy to the account." Your lordships see, that after all he declares he cannot make his account accurate; he further adds, "Perhaps the honourable court will judge this sufficient," that is, this explanation, namely, that he can give none, "for any purpose, to which their inquiry was directed; but, if it should not be so, I will beg leave to refer, for a more minute information, and for the means of making any investigation, which they may think it proper to direct respecting the particulars of this transaction, to Mr. Larkins, your accountant-general, who was privy to every process of it, and possessed, as I believe, the original paper, which contained the only account, that I ever kept of it."

Here is a man, who of his bribe accounts cannot give an account in the country where they are carried on. When you call upon him in Bengal, he cannot give the account, because he is in Bengal: when he comes to England, he cannot give the account here, because his accounts are left in Bengal. Again, he keeps no accounts himself, but his accounts are in Bengal, in the hands of somebody else; to him he refers, and we shall see what that reference produced. "In this, each receipt was, as I recollect, specifically inserted, with the name of the person, by whom it was made; and I shall write to him to desire, that he will furnish you with the paper itself, if it is

still in being, and in his hands, or with whatever he can distinctly recollect concerning it." Here are accounts kept for the company, and yet he does not know, whether they are in existence any where. "For my motives for withholding the several receipts from the knowledge of the council, or of the court of directors, and for taking bonds for part of these sums, and paying others into the treasury as deposits on my own account, I have generally accounted in my lettter to the honourable the court of directors, of the 22d of May 1782; namely, that I either chose to conceal the first receipts from public curiosity, by receiving bonds for the amount, or possibly acted without any studied design, which my memory, at that distance of time, could verify; and that I did not think it worth my care to observe the same means with the rest. It will not be expected, that I should be able to give a more correct explanation of my intentions, after a lapse of three years, having declared at the time that many particulars had escaped my remembrance: neither shall I attempt to add more than the clearer affirmation of the facts implied in that report of them, and such inferences as necessarily or with a strong probability follow them."

You have heard of that oriental *figure*, called, in the banyan language, a *painche*; in English, a *screw*: it is a puzzled and studied involution of a period, framed in order to prevent the discovery of truth, and the detection of fraud; and surely it cannot be better exemplified than in this sentence: "Neither shall I attempt to add more than the clearer affirmation of the facts implied in that report of them, and such inferences as necessarily or with a strong probability follow them." Observe, that he says, *not facts stated*, but *facts implied in the report*—and of what was this to be a report? Of things, which the directors declared they did not understand; and then the inferences, which are to follow these implied facts are to follow them—But how? *With a strong probability*. If you have a mind to study this oriental figure of rhetoric, the *painche* here, it is for you in its most complete perfection. No rhetorician ever gave an example of any figure of oratory, that can match this. But let us endeavour to unravel the whole passage. First, he states, that in May 1782, he had forgotten his motives for falsifying the company's accounts; but he affirms the facts contained in the report, and afterwards, very rationally, draws such inferences as necessarily or with a strong probability follow them. And, if I understand it at all, which, God knows, I no more pretend to do, than Don Quixote did those sentences of lovers in romance writers, of which, he said, it made him run mad to attempt to discover the meaning; the inference is, Why do you call upon me for accounts now, three years after the time, when I could not give you them? I cannot give them you; and, as to the papers relating to them, I do not know whether they exist: and if they do, perhaps you may learn something from them; perhaps you may not: I will write to Mr. Larkins for those papers, if you please. Now, comparing this with his other accounts, you will see what a monstrous scheme he has laid of fraud and concealment to cover his peculation. He tells them, "I have said, that the three first sums of the account were paid into the company's treasury, without passing through my hands. The second of these was forced into notice by its destination and application to the expense of a detachment, which was formed and employed against Mahdajee Scindia, under the command of Lieutenant-Colonel Camac, as I particularly apprized the court of directors in my letter of the 29th December 1780." He does not yet tell the directors, from whom he received it; we have found it out by other collateral means. "The other two were certainly not intended, when I received them, to be made public, though intended for public service, and actually applied to it. The exigencies of government were at that time my own, and every pressure upon it rested with its full weight upon my mind. Wherever I could find allowable means of relieving those wants, I eagerly seized them." Allowable means of receiving bribes! for such I shall prove them to be in the particular instances. "But neither could it occur to me as necessary to state on our proceedings every little aid, that I could thus procure, nor do I know how I could have stated it, without appearing to court favour by an ostentation, which I disdained, nor without the chance of exciting the jealousy of my colleagues by the constructive assertion of a separate and unparticipated merit, derived from the influence of my station, to which they might have had an equal claim."

Now we see, that, after hammering his brains for many years, he does find out his motive, which he could not verify at the time; namely, that if he let his colleagues know that he was receiving bribes, and gaining the glory of receiving them, they might take it into their heads likewise to have their share in the same glory, as they were joined in the same commission, enjoyed the same powers, and were subject

to the same restrictions. It was indeed scandalous in Mr. Hastings, not behaving like a good fair colleague in office, not to let them know that he was going on in this career of receiving bribes, and to deprive them of their share in the glory of it; but they were grovelling creatures, who thought that keeping clean hands was some virtue. Well, but you have applied some of these bribes to your own benefit; why did you give no account of those bribes? I did not, he says, because it might have excited the envy of my colleagues. To be sure, if he was receiving bribes for his own benefit, and they not receiving such bribes, and if they had a liking to that kind of traffic, it is a good ground of envy, that a matter, which ought to be in common among them, should be confined to Mr. Hastings, and he therefore did well to conceal it; and, on the other hand, if we suppose him to have taken them, as he pretends, for the company's use, in order not to excite a jealousy in his colleagues for being left out of this meritorious service, to which they had an equal claim, he did well to take bonds for what ought to be brought to the company's accounts. These are reasons applicable to his colleagues, who sat with him at the same board: Mr. Macpherson, Mr. Stables, Mr. Wheler, General Clavering, Colonel Monson, and Mr. Francis: he was afraid of exciting their envy or their jealousy. You will next see another reason, and an extraordinary one it is, which he gives for concealing these bribes from his inferiours.

But I must first tell your lordships, what, till the proof is brought before you, you will take on credit—indeed it is on his credit—that when he formed the committee of revenue, he bound them by a solemn oath, "not, under any name or pretence whatever, to take from any zemindar, farmer, person concerned in the revenue, or any other, any gift, gratuity, allowance, or reward whatever, or any thing beyond their salary;" and this is the oath to which he alludes. Now his reason for concealing his bribes from his inferiours, this committee, under these false and fraudulent bonds, he states thus: "I should have deemed it particularly dishonourable to receive for my own use, money tendered by a certain class, from whom I had interdicted the receipt of presents to my inferiours, and bound them, by oath, not to receive them: I was therefore more than ordinarily cautious to avoid the suspicion of it, which would scarcely have failed to light upon me, had I suffered the money to be brought to my own house, or that of any person known to be in trust for me." My lords, here he comes before you, avowing, that he knew the practice of taking money from these people was a thing dishonourable in itself. "I should have deemed it particularly dishonourable to receive, for my own use, money tendered by men of a certain class, from whom I had interdicted the receipt of presents to my inferiours, and bound them, by oath, not to receive them." He held it particularly dishonourable to receive them: he had bound others by an oath not to receive them: but he received them himself, and why does he conceal it? why; because, says he, if the suspicion came upon me, the dishonour would fall upon my pate. Why did he, by an oath, bind his inferiours not to take these bribes? Why, because it was base and dishonourable so to do; and because it would be mischievous and ruinous to the company's affairs to suffer them to take bribes. Why then did he take them himself? It was ten times more ruinous, that he, who was at the head of the company's government, and had bound up others so strictly, should practise the same himself; and, therefore, says he, "I was more than ordinarily cautious." What? To avoid it? No; to carry it on in so clandestine and private a manner, as might secure me from the suspicion of that, which I know to be detestable, and bound others up from practising.

We shall prove, that the kind of men, from whom he interdicted his committee to receive bribes, were the identical men from whom he received them himself. If it was good for him, it was good for them, to be permitted these means of extorting; and, if it ought at all to be practised, they ought to be admitted to extort for the good of the company. Rajah Nobkissen was one of the men, from whom he interdicted them to receive bribes, and from whom he received a bribe for his own use. But he says, he concealed it from them, because he though great mischief might happen even from their suspicion of it, and lest they should thereby be inclined themselves to practise it, and to break their oath.

You take it then for granted, that he really concealed it from them: No such thing; his principal confidant in receiving these bribes was Mr. Croftes, who was a principal person in this board of revenue, and whom he had made to swear not to take bribes: he is the confidant, and the very receiver, as we shall prove to your lordships. What will your lordships think of his affirming, and averring a direct falsehood, that he did it to conceal it from these men, when one of them was his principal confidant and agent in the trans-

action? What will you think of his being more than ordinarily cautious to avoid the suspicion of it? He ought to have avoided the crime, and the suspicion would take care of itself. "For these reasons," he says, "I caused it to be transported immediately to the treasury. There I well knew, sir, it could not be received, without being passed to some credit, and this could only be done by entering it as a loan, or as a deposit. The first was the least liable to reflection; and therefore I had obviously recourse to it. Why the second sum was intended as a deposit, I am utterly ignorant. Possibly it was done without any special direction from me; possibly because it was the simplest mode of entry, and therefore preferred, as the transaction itself did not require concealment, having been already avowed." My lords, in fact, every word of this is either false or groundless: it is completely fallacious in every part. The first sum, he says, was entered as a loan; the second as a deposit. Why was this done? Because, when you enter moneys of this kind, you must enter them under some name, some head of account; and I entered them, he says, under these, because otherwise there was no entering them at all. Is this true? Will he stick to this? I shall desire to know from his learned council, some time or other, whether that is a point he will take issue upon. Your lordships will see there were other bribes of his, which he brought under a regular official head, namely, *durbar charges;* and there is no reason why he should not have brought these under the same head. Therefore what he says, that there is no other way of entering them but as loans and deposits, is not true. He next says, that in the second sum there was no reason for concealment, because it was avowed: but that false deposit was as much concealment as the false loan, for he entered that money as his own; whereas when he had a mind to carry any money to the company's account, he knew how to do it, for he had been accustomed to enter it under a general name, called durbar charges; a name, which, in its extent at least, was very much his own invention, and which, as he gives no account of those charges, is as large and sufficient to cover any fraudulent expenditure in the account, as, one would think, any person could wish. You see him, then, first guessing one thing, then another; first giving this reason, then another: at last, however, he seems to be satisfied that he has hit upon the true reason of his conduct.

Now let us open the next paragraph, and see what it is. "Although I am firmly persuaded, that these were my sentiments on the occasion, yet I will not affirm that they were. Though I feel their impression as the remains of a series of thoughts retained on my memory, I am not certain that they may not have been produced by subsequent reflection on the principal fact, combining with it the probable motives of it. Of this I am certain, that it was my design originally to have concealed the receipt of all the sums, except the second, even from the knowledge of the court of directors. They had answered my purpose of public utility, and I had almost dismissed them from my remembrance." My lords, you will observe in this most astonishing account, which he gives here, that several of these sums he meant to conceal for ever, even from the knowledge of the directors. Look back to his letter of 22d May 1782, and his letter of the 16th of December, and in them he tells you, that he might have concealed them, but that he was resolved not to conceal them: that he thought it highly dishonourable so to do; that his conscience would have been wounded, if he had done it; and that he was afraid it would be thought, that this discovery was brought from him in consequence of the parliamentary inquiries. Here, he says of a discovery, which he values himself upon making voluntarily, that he is afraid it should be attributed to arise from motives of fear. Now, at last, he tells you, from Cheltenham, at a time when he had just cause to dread the strict account, to which he is called this day; first, that he cannot tell whether any one motive, which he assigns, either in this letter or in the former, were his real motive or not; that he does not know, whether he has not invented them since, in consequence of a train of meditation, upon what he might have done, or might have said; and, lastly, he says, contrary to all his former declarations, "that he had never meant nor could give the directors the least notice of them at all, as they had answered his purpose, and he had dismissed them from his remembrance." I intended, he says, always to keep them secret, though I have declared to you solemnly, over and over again, that I did not. I do not care how you discovered them; I have forgotten them; I have dismissed them from my remembrance. Is this the way, in which money is to be received and accounted for?

He then proceeds thus: "But when fortune threw a sum of money in my way, of a magnitude which could not be concealed, and the peculiar delicacy of my situation at the time

I received it, made me more circumspect of appearances; I chose to apprize my employers of it, which I did hastily and generally: hastily, perhaps, to prevent the vigilance and activity of secret calumny; and generally, because I knew not the exact amount, of which I was in the receipt, but not in the full possession. I promised to acquaint them with the result as soon as I should be in possession of it; and, in the performance of my promise, I thought it consistent with it to add to the amount all the former appropriations of the same kind; my good genius then suggesting to me, with a spirit of caution, which might have spared me the trouble of this apology, had I universally attended to it, that if I had suppressed them, and they were afterwards known, I might be asked, what were my motives for withholding a part of these receipts from the knowledge of the court of directors, and informing them of the rest, it being my wish to clear up every doubt." I am almost ashamed to remark upon the tergiversations, and prevarications, perpetually ringing the changes in this declaration. He would not have discovered this hundred thousand pounds, if he could have concealed it: he would have discovered it, lest malicious persons should be telling tales of it. He has a system of concealment; he never discovers any thing, but when he thinks it can be forced from him. He says, indeed, I could conceal these things for ever, but my conscience would not give me leave: but it is guilt, and not honesty of conscience, that always prompts him. At one time it is the malice of people and the fear of misrepresentation, which induced him to make the disclosure; and he values himself on the precaution, which this fear had suggested to him. At another time it is the magnitude of the sum, which produced this effect: nothing but the impossibility of concealing it could possibly have made him discover it. This hundred thousand pounds he declares he would have concealed, if he could, and yet he values himself upon the discovery of it. Oh, my lords, I am afraid that sums of much greater magnitude have not been discovered at all. Your lordships now see some of the artifices of this letter. You see the variety of styles he adopts, and how he turns himself into every shape, and every form. But after all, do you find any clear discovery? do you find any satisfactory answer to the directors' letter? does he once tell you from whom he received the money? does he tell you for what he received it? what the circumstances of the persons giving it were, or any explanation whatever of his mode of accounting for it? No; and here, at last, after so many years' litigation, he is called to account for his prevaricating false accounts in Calcutta, and cannot give them to you.

His explanation of his conduct relative to the bonds, now only remains for your lordships' consideration. Before he left Calcutta in July 1784, he says, when he was going upon a service, which he thought a service of danger, he indorsed the false bonds, which he had taken from the company, declaring them to be none of his. You will observe, that these bonds had been in his hands from the ninth or fifteenth of January (I am not quite sure of the exact date) to the day when he went upon this service, some time in the month of July 1784. This service he had formerly declared he did not apprehend to be a service of danger: but he found it to be so after: it was in anticipation of that danger, that he made this attestation and certificate upon the bonds. But who ever saw them? Mr. Larkins saw them, says he: I gave them to Mr. Larkins. We will show you hereafter, that Mr. Larkins deserves no credit in this business; that honour binds him not to discover the secrets of Mr. Hastings. But why did he not deliver them up entirely, when he was going upon that service? for all pretence of concealment in the business was now at an end, as we shall prove. Why did he not cancel these bonds? why keep them at all? why not enter truly the state of the account in the company's records. But I indorsed them, he says: Did you deliver them so indorsed into the treasury? No, I delivered them indorsed into the hands of my bribe-broker and agent. But why not destroy them or give them up to the company, and say you were paid, which would have been the only truth in this transaction? Why did you not indorse them before? why not during the long period of so many years, cancel them? No, he kept them to the very day when he was going from Calcutta, and had made a declaration, that they were not his. Never before, upon any account, had they appeared; and though the committee of the House of Commons, in the eleventh report, had remarked upon all these scandalous proceedings and prevarications, yet he was not stimulated, even then, to give up these bonds. He held them in his hands, till the time when he was preparing for his departure from Calcutta, in spite of the directors, in spite of the parliament, in spite of the cries of his own conscience, in a matter, which was now grown public, and would knock doubly upon his re-

putation and conduct. He then declares, they are not for his own use, but for the company's service. But were they then cancelled? I do not find a trace of their being cancelled. In this letter of the 17th of January 1785, he says, "With regard to these bonds: the following sums were paid into the treasury, and bonds granted for the same, in the name of the governour-general, in whose possession the bonds remain, with a declaration upon each, indorsed, and signed by him, that he has no claim on the company for the amount either of principal or interest, no part of the latter having been received."

To the account of the twenty-second of May, of the indorsement, is added the declaration upon oath. But why any man need to declare upon oath, that the money, which he has fraudulently taken and concealed from another person, is not his, is the most extraordinary thing in the world: If he had a mind to have it placed to his credit as his own, then an oath would be necessary: but, in this case, any one would believe him upon his word. He comes, however, and says, This is indorsed upon oath. oath! before what magistrate? in whose possession were the bonds? were they given up? There is no trace of that upon the record, and it stands for him to prove, that they were ever given up, and in any hands but Mr. Larkins's and his own. So here are the bonds, began in obscurity and ending in obscurity, ashes to ashes, dust to dust, corruption to corruption, and fraud to fraud. This is all we see of these bonds, till Mr. Larkins, to whom he writes some letter concerning them, which does not appear, is called to read a funeral sermon over them.

My lords, I am come now near the period of this class of Mr. Hastings's bribes. I am a little exhausted. There are many circumstances, that might make me wish not to delay this business by taking up another day at your lordships' bar, in order to go through this long intricate scene of corruption. But my strength now fails me. I hope within a very short time, to-morrow or the next court day, to finish it, and to go directly into evidence, as I long much to do, to substantiate the charge; but it was necessary that the evidence should be explained. You have heard as much of the drama as I could go through; bear with my weakness a little. Mr. Larkins's letter will be the epilogue to it. I have already incurred the censure of the prisoner; I mean to increase it by bringing home to him the proof of his crimes, and to display them in all their force and turpitude. It is my duty to do it; I feel it an obligation nearest to my heart.

TRIAL.—THURSDAY, MAY 7th, 1789.

(MR. BURKE.)

MY LORDS,—When I had the honour last to address you from this place, I endeavoured to press this position upon your minds, and to fortify it by the example of the proceedings of Mr. Hastings, that obscurity and inaccuracies in a matter of account constituted a just presumption of fraud. I showed, from his own letters, that his accounts were confused and inaccurate. I am ready, my lords, to admit, that there are situations, in which a minister, in high office, may use concealment; it may be his duty to use concealment from the enemies of his masters; it may be prudent to use concealment from his inferiours in the service. It will always be suspicious to use concealment from his colleagues, and co-ordinates in office. But when, in a money transaction, any man uses concealment with regard to them to whom the money belongs, he is guilty of a fraud. My lords, I have shown you, that Mr. Hastings kept no account, by his own confession, of the moneys, that he had privately taken, as he pretends, for the company's service, and we have but too much reason to presume, for his own. We have shown you, my lords, that he has not only no accounts, but no memory: we have shown, that he does not even understand his own motives; that, when called upon to recollect them, he begs to guess at them; and that as his memory is to be supplied by his guess, so he has no confidence in his guesses. He at first finds, after a lapse of about a year an' half or somewhat less, that he cannot recollect what his motives were to certain actions, which upon the very face of them appeared fraudulent. He is called to an account some years after, to explain what they were, and he makes a just reflection upon it: namely, that as his memory did not enable him to find out his own motive at the former time, it is not to be expected that it would be clearer a year after. Your lordships will, however, recollect that in the Cheltenham letter, which is made of no perishable stuff, he begins again to guess; but after he has guessed, and guessed again, and after he has gone through all the motives he can possibly assign for the action, he tells you, he does not know, whether those were his real motives, or whether he has not invented them since.

In that situation the accounts of the company were left, with regard to very great sums,

which passed through Mr. Hastings's hands, and for which he, instead of giving his masters credit, took credit to himself; and, being their debtor, as he confesses himself to be, at that time, took a security for that debt, as if he had been their creditor. This required explanation: explanation he was called upon for, over and over again: explanation he did not give, and declared, he could not give. He was called upon for it when in India; he had not leisure to attend to it there. He was called upon for it when in Europe; he then says, he must send for it to India. With much prevarication, and much insolence too, he confesses himself guilty of falsifying the company's accounts by making himself their creditor, when he was their debtor, and giving false accounts of this false transaction. The court of directors was slow to believe him guilty; parliament expressed a strong suspicion of his guilt, and wished for further information. Mr. Hastings, about this time, began to imagine his conscience to be a faithful and true monitor, which it were well he had attended to upon many occasions, as it would have saved him his appearance here; and it told him, that he was in great danger from the parliamentary inquiries, that were going on. It was now to be expected, that he would have been in haste to fulfil the promise, which he had made in the Patna letter of the 20th of January 1782; and accordingly we find that about this time his first agent, Major Fairfax, was sent over to Europe, which agent entered himself at the India house, and appeared before the committee of the House of Commons, as an agent expressly sent over to explain whatever might appear doubtful in his conduct. Major Fairfax, notwithstanding the character in which Mr. Hastings employed him, appeared to be but a letter carrier: he had nothing to say, he gave them no information in the India house at all; to the committee (I can speak with the clearness of a witness) he gave us no satisfaction whatever. However, this agent vanished in a moment in order to make way for another more substantial, more efficient agent: an agent perfectly known in this country. An agent known by the name given to him by Mr. Hastings, who like the princes of the East gives titles; he calls him an incomparable agent; and by that name he is very well known to your lordships, and the world. This agent, Major Scott, who, I believe, was here prior to the time of Major Fairfax's arrival, in the character of an agent, and for the very same purposes, was called before the committee, and examined point by point, article by article, upon all that obscure enumeration of bribes, which the court of directors declared they did not understand; but he declared, that he could speak nothing with regard to any of these transactions, and that he had got no instructions to explain any part of them. There was but one circumstance, which in the course of his examination we drew from him, namely, that one of these articles, entered in the account of the 22d of May, as a deposit, had been received from Mr. Hastings as a bribe from Cheit Sing: he produced an extract of a letter relative to it, which your lordships in the course of this trial may see, and which will lead us into a further and more minute inquiry on that head; but when that committee made their report in 1783, not one single article had been explained to parliament, not one explained to the company, except this bribe of Cheit Sing, which Mr. Hastings had never thought proper to communicate to the East-India Company, either by himself, nor, as far as we could find out, by his agent; nor was it at last otherwise discovered, than as it was drawn out from him by a long examination in the committee of the House of Commons. And thus, notwithstanding the letters he had written, and the agents he employed, he seemed absolutely and firmly resolved to give his employers no satisfaction at all. What is curious in this proceeding is, that Mr. Hastings, all the time he conceals, endeavours to get himself the credit of a discovery. Your lordships have seen what his discovery is; but Mr. Hastings, among his other very extraordinary acquisitions, has found an effectual method of concealment through discovery. I will venture to say, that whatever suspicions there might have been of Mr. Hastings's bribes, there was more effectual concealment in regard to every circumstance respecting them in that discovery, than if he had kept a total silence. Other means of discovery might have been found, but this standing in the way, prevented the employment of those means.

Things continued in this state, till the time of the letter from Cheltenham: the Cheltenham letter declared, that Mr. Hastings knew nothing of the matter: that he had brought with him no accounts, to England, upon the subject; and though it appears by this very letter, that he had with him at Cheltenham (if he wrote the letter at Cheltenham) a great deal of his other correspondence: that he had his letter of the 22d of May with him, yet any account, that could elucidate that letter, he declared that he had not: but he hinted, that a Mr. Larkins in India, whom your lordships

will be better acquainted with, was perfectly apprized of all that transaction. Your lordships will observe, that Mr. Hastings has all his faculties, some way or other, in deposit; one person can speak to his motives; another knows his fortune better than himself; to others he commits the sentimental parts of his defence; to Mr. Larkins he commits his memory. We shall see what a trustee of memory Mr. Larkins is, and how far he answers the purpose, which might be expected when appealed to by a man, who has no memory himself, or who has left it on the other side of the water; and who leaves it to another to explain for him accounts, which he ought to have kept himself, and circumstances, which ought to be deposited in his own memory.

This Cheltenham letter, I believe, originally became known, as far as I can recollect, to the House of Commons, upon a motion of Mr. Hastings's own agent: I do not like to be positive upon that point; but, I think, that was the first appearance of it. It appeared likewise in public; for, it was thought so extraordinary and laborious a performance, by the writer, or his friends, as indeed it is, that it might serve to open a new source of eloquence in the kingdom; and, consequently, was printed, I believe, at the desire of the parties themselves. But, however it became known, it raised an extreme curiosity in the public to hear, when Mr. Hastings could say nothing, after so many years, of his own concerns and his own affairs, what satisfaction Mr. Larkins, at last, would give concerning them. This letter was directed to Mr. Devaynes, chairman of the court of directors. It does not appear, that the court of directors wrote any thing to India in consequence of it, or that they directed this satisfactory account of the business should be given them; but some private communications passed between Mr. Hastings, or his agents, and Mr. Larkins. There was a general expectation upon this occasion, I believe, in the House of Commons, and in the nation at large, to know what would become of the portentous inquiry. Mr. Hastings has always contrived to have half the globe between question and answer; when he was in India, the question went to him, and then he adjourned his answer till he came to England; and, when he came to England, it was necessary his answer should arrive from India; so that there is no manner of doubt, that all time was given for digesting, comparing, collating, and making up a perfect memory upon the occasion. But, my lords, Mr. Larkins, who has in custody Mr. Hastings's memory, no small part of his conscience, and all his accounts, did, at last, in compliance with Mr. Hastings's desire, think proper to send an account. Then at last, we may expect light. Where are we to look for accounts but from an accountant-general? Where are they to be met with, unless from him? and, accordingly, in that night of perplexity, into which Mr. Hastings's correspondence had plunged them, men looked up to the dawning of the day, which was to follow that star; the little Lucifer, which, with his lamp, was to dispel the shades of night, and give us some sort of light into this dark mysterious transaction. At last, the little lamp appeared, and was laid on the table of the House of Commons, on the motion of Mr. Hastings's friend; for we did not know of its arrival. It arrives, with all the intelligence, all the memory, accuracy, and clearness, which Mr. Larkins can furnish for Mr. Hastings, upon a business, that, before, was nothing but mystery and confusion. The account is called "Copy of the particulars of the dates, on which the component parts of sundry sums included in the account of sums received on the account of the honourable company by the governour-general, or paid to their treasury by his order, and applied to their service, when received for Mr. Hastings, and paid to sub-treasurer." The letter from Mr. Larkins consisted of two parts; first, what was so much wanted, an account; next, what was wanted most of all to such an account as he sent, a comment and explanation. The account consisted of two members; one gave an account of several detached bribes, that Mr. Hastings had received within the course of about a year and a half; and, the other, of a great bribe, which he had received in one gross sum of 100,000*l.* from the nabob of Oude. It appeared to us, upon looking into these accounts, that there was some geography, a little bad chronology, but nothing else in the first; neither the persons, who took the money, nor the persons, from whom it was taken, nor the ends, for which it was given, nor any other circumstances, are mentioned.

The first thing we saw was *Dinagepore*. I believe you know this piece of geography, that it is one of the provinces of the kingdom of Bengal. We then have a long series of months, with a number of sums added to them; and in the end, it is said, that on the 18th and 19th of Assin, meaning part of September and part of October, were paid to Mr. Croftes, two lacks of rupees; and then remains one lack, which was taken from a sum of three lacks six thousand nine hundred and seventy-three rupees,

After we had waited for Mr. Hastings's own account; after it had been pursued through a series of correspondence in vain; after his agents had come to England to explain it, this is the explanation that your lordships have got of this first article, Dinagepore; not the person paid to, not the person paying, are mentioned, nor any other circumstance, except the signature, *G. G. S.*; this might serve for *George Gilbert Sanders*, or any other name you please: and seeing *Croftes* above it, you might imagine it was an Englishman: and this, which I call a geographical and a chronological account, is the only account we have. Mr. Larkins, upon the mere face of the account, sadly disappoints us; and I will venture to say, that in matters of account Bengal book-keeping is as remote from good book-keeping, as the Bengal *painches* are remote from all the rules of good composition.

We have however got some light; namely, that one G. G. S. has paid some money to Mr. Croftes for some purpose; but, from whom, we know not, nor where: that there is a place called Dinagepore, and that Mr. Hastings received some money from somebody in Dinagepore.

The next article is *Patna*. Your lordships are not so ill acquainted with the geography of India, as not to know, that there is such a place as *Patna*, nor so ill acquainted with the chronology of it, as not to know, that there are three months called Bysack, Assin, Cheit. Here was paid to Mr. Croftes two lacks of rupees, and there was left a balance of about two more.

But, though you learn, with regard to the province of Dinagepore, that there is a balance to be discharged by G. G. S.; yet, with regard to Patna, we have not even a G. G. S.; we have no sort of light whatever to know through whose hands the money passed, nor any glimpse of light whatever respecting it. You may expect to be made amends in the other province, called *Nuddea*, where Mr. Hastings had received a considerable sum of money: there is the very same darkness; not a word from whom received, by whom received, or any other circumstance, but that it was paid into the hands of Mr. Hastings's *white banyan*, as he was commonly called in that country, into the hands of Mr. Croftes, who is his white agent in receiving bribes; for he was very far from having but one.

After all this inquiry, after so many severe animadversions from the House of Commons, after all those reiterated letters from the directors, after an application to Mr. Hastings *himself*, when you are hunting to get at some explanation of the proceedings mentioned in the letter of the month of May 1782, you receive here, by Mr. Larkins's letter, which is dated the 5th of August 1786, this account; which, to be sure, gives an amazing light into this business: it is a letter, for which it was worth sending to Bengal, worth waiting for with all that anxious expectation, with which men wait for great events. Upon the face of the account there is not one single word, which can tend to illustrate the matter: He sums up the whole, and makes out, that there was received five lacks and 50,000 rupees; that is to say, £.55,000 out of the sum of nine lacks and 50,000 engaged to be paid—namely

From Dinagepore - -	4,00,000
From Nuddea - - -	1,50,000
And from Patna - - -	4,00,000
	9,50,000
	Or £.95,000

Now you have got full light! *Cabooleat* signifies a contract, or an agreement; and this agreement was to pay Mr. Hastings, as one should think, certain sums of money; it does not say from whom, but only that such a sum of money was paid, and that there remains such a balance. When you come and compare the money received by Mr. Croftes with these cabooleats, you find that the cabooleats amount to £.95,000, and that the receipt has been about £.55,000, and that upon the face of this account, there is £.40,000 somewhere or other unaccounted for. There never was such a mode of account keeping, except in the new system of this bribe exchequer.

Your lordships will now see, from this luminous, satisfactory, and clear account, which could come from no other than a great accountant and a great financier, establishing some new system of finance, and recommending it to the world as superior to those old-fashioned foolish establishments, the exchequer and bank of England, what lights are received from Mr. Hastings.

However, it does so happen, that from these obscure hints we have been able to institute examinations, which have discovered such a mass of fraud, guilt, corruption, and oppression, as probably never before existed since the beginning of the world: and in that darkness, we hope and trust, the diligence and zeal of the House of Commons will find light sufficient to make a full discovery of his base crimes. We hope and trust, that after all his

concealments, and, though he appear resolved to die in the last dyke of prevarication, all his artifices will not be able to secure him from the siege, which the diligence of the House of Commons has laid to his corruptions.

Your lordships will remark in a paragraph, which, though it stands last, is the first in principle, in Mr. Larkins's letter, that, having before given his comment, he perorates, as is natural, upon such an occasion. This peroration, as is usual in perorations, is in favour of the parties speaking it, an *ad conciliandum auditorem*. "Conscious, (he says) that the concern, which I have had in these transactions, needs neither an apology nor an excuse;—that is rather extraordinary too!—and that I have in no action of my life sacrificed the duty and fidelity which I owed to my honourable employers, either to the regard, which I felt for another, or to the advancement of my own fortune, I shall conclude this address, firmly relying upon the candour of those, before whom it may be submitted, for its being deemed a satisfactory as well as a circumstantial compliance with the requisition, in conformity to which the information it affords has been furnished;" meaning, as your lordships will see in the whole course of the letter, that he had written it in compliance with the requisition, and in conformity to the information he had been furnished with by Mr. Hastings;—"without which it would have been as base as dishonourable for me spontaneously to have afforded it; for though the duty, which every man owes to himself, should render him incapable of making an assertion not strictly true, no man, actuated either by virtuous or honourable sentiments, could mistakenly apprehend, that unless he betrayed the confidence reposed in him by another, he might be deemed deficient in fidelity to his employers."

My lords, here is, in my opinion, a discovery very well worthy your lordships' attention; here is the accountant-general of the company, who declares, and fixes it, as a point of honour, that he would not have made a discovery so important to them, if Mr. Hastings himself had not authorized him to make it: a point to which he considers himself bound, by his honour, to adhere. Let us see, what becomes of us, when the principle of honour is so debauched and perverted. A principle of honour, as long as it is connected with virtue, adds no small efficacy to its operation, and no small brilliancy and lustre to its appearance; but honour, the moment that it becomes unconnected with the duties of official function, with the relations of life, and the eternal and immutable rules of morality, and appears in its substance alien to them, changes its nature, and instead of justifying a breach of duty, aggravates all its mischiefs to an almost infinite degree; by the apparent lustre of the surface, it hides from you the baseness and deformity of the ground: here is Mr. Hastings's agent, Mr. Larkins, the company's general accountant, prefers his attachment to Mr. Hastings, to his duty to the company. Instead of the account, which he ought to give to them, in consequence of the trust reposed in him, he thinks himself bound by honour to Mr. Hastings, if Mr. Hastings had not called for that explanation, not to have given it; so that whatever obscurity is in this explanation, it is because Mr. Hastings did not authorize or require him to give a clearer: Here is a principle of treacherous fidelity; of perfidious honour; of the faith of conspirators against their masters; the faith of robbers against the public, held up, against the duty of an officer in a public situation. You see, how they are bound to one another, and how they give their fidelity to keep the secrets of one another, to prevent the directors having a true knowledge of their affairs; and, I am sure, if you do not destroy this honour of conspirators, and this faith of robbers, that there will be no other honour and no other fidelity among the servants in India. Mr. Larkins, your lordships see, adheres to the principle of secrecy; you will next remark, that Mr. Hastings had as many bribe-factors as bribes; there was confidence to be reposed in each of them, and not one of these men appears to be in the confidence of another. You will find, in this letter, the policy, the frame, and constitution of this new exchequer. Mr. Croftes seems to have known things, which Mr. Larkins did not: Mr. Larkins knew things, which Gunga Govin Sing did not. Gunga Govin Sing knew things, which none of the rest of the confederates knew. Cantoo Baboo, who appears in this letter as a principal actor, was in a secret, which Mr. Larkins did not know. It appears, likewise, that there was a Persian moonshee in a secret, of which Cantoo Baboo was ignorant; and it appears, that Mr. Palmer was in the secret of a transaction, not intrusted to any of the rest. Such is the labyrinth of this practical *painche*, or screw, that if, for instance, you were endeavouring to trace backwards some transaction through Major Palmer, you would be stopped there; and must go back again, for it had begun with Cantoo Baboo. If in another you were to penetrate into the recess of the black breast of Canto Baboo, you could not go further; for it

began with Gunga Govin Sing. If you pierce the breast of Gunga Govin Sing, you are again stopped; a Persian moonshee was the confidential agent. If you get beyond this, you find Mr. Larkins knew something, which the others did not; and at last, you find, Mr. Hastings did not put entire confidence in any of them. You will see, by this letter, that he kept his accounts in all colours, black, white, and mezzotinto: that he kept them in all languages; in Persian, in Bengallee, and in a language, which, I believe, is neither Persian, nor Bengallee, nor any other known in the world; but a language, in which Mr. Hastings found it proper to keep his accounts and to transact his business. The persons carrying on the accounts are, Mr. Larkins, an Englishman, Cantoo Baboo, a Gentoo, and a Persian moonshee, probably a Mahomedan. So all languages, all religions, all descriptions of men, are to keep the account of these bribes, and to make out this valuable account, which Mr. Larkins gave you!

Let us now see, how far the memory, observation, and knowledge of the persons referred to, can supply the want of them in Mr. Hastings. These accounts come at last, though late, from Mr. Larkins, who I will venture to say, let the banyans boast what they will, has skill perhaps equal to the best of them: he begins by explaining to you something concerning the present of the ten lacks. I wish your lordships always to take Mr. Hastings's word, where it can be had, or Mr. Larkins's, who was the representative of, and memory keeper to, Mr. Hastings; and, then, I may perhaps take the liberty of making some observations upon it.—" Extract of a letter from William Larkins, accountant-general of Bengal, to the chairman of the East-India Company, dated 5th August 1786. Mr. Hastings returned from Benares to Calcutta on the 5th February 1782: at that time wholly ignorant of the letter, which on the 20th January he wrote from Patna, to the secret committee of the honourable the court of directors: The rough draft of this letter, in the handwriting of Major Palmer, is now in my possession. Soon after his arrival at the presidency, he requested me to form the account of his receipts and disbursements, which you will find journalized in the 280th, &c. and 307th pages of the honourable company's general books of the year 1781-2. My official situation as accountant-general, had previously convinced me, that Mr. Hastings could not have made the issues, which were acknowledged as received from him, by some of the paymasters of the army, unless he had obtained some such supply, as that which he afterwards, viz. on the 22d May 1782, made known to me, when I immediately suggested to him the necessity of his transmitting that account, which accompanied his letter of that date, till when the promise contained in his letter of 20th January had entirely escaped his recollection."

The first thing I would remark on this, and I believe your lordships have rather gone before me in the remark, is, that Mr. Hastings came down to Calcutta on the 5th of February, that then, or a few days after, he calls to him his confidential and faithful friend, (not his official secretary, for he trusted none of his regular secretaries with these transactions,) he calls him to help him to make out his accounts during his absence. You would imagine, that at that time, he trusted this man with his account: no such thing; he goes on with the accountant-general, accounting with him for money expended, without ever explaining to that accountant-general how that money came into his hands. Here, then, we have the accountant making out the account, and the person accounting; the accountant does not in any manner make an objection, and say, Here you are giving me an account, by which it appears, that you have expended money, but you have not told me, where you received it: how shall I make out a fair account of debtor and creditor, between you and the company? He does no such thing. There lies a suspicion in his breast, that Mr. Hastings must have taken some money, in some irregular way, or he could not have made those payments. Mr. Larkins begins to suspect him. " Where did you lose this bodkin?" (said one lady to another upon a certain occasion:) " Pray, madam, where did you find it?" Mr. Hastings, at the very moment of his life when confidence was required, even when making up his accounts with his accountant, never told him one word of the matter. You see he had no confidence in Mr. Larkins; this makes out one of the propositions I want to impress upon your lordships' minds, that no one man did he let into every part of his transactions; a material circumstance, which will help to lead your lordships' judgment in forming your opinion upon many parts of this cause.

You see, that Mr. Larkins suspected him: probably in consequence of those suspicions, or from some other cause, he at last told him upon the 22d of May 1782; (but why at that time, rather than at any other time, does not appear; and this we shall find very difficult

to be accounted for ;) he told him, that he had received a bribe from the nabob of Oude, of £.100,000: he informs him of this on the 22d of May, which, when the accounts were making up, he conceals from him: and he communicates to him the rough draughts of his letter to the court of directors, informing them, that this business was not transacted by any known secretary of the company, nor with the intervention of any interpreter of the company; nor passed through any official channel whatever, but through a gentleman much in his confidence, his military secretary; and, as if receiving bribes, and receiving letters concerning them, and carrying on correspondence relative to them, was a part of military duty, the rough draught of this letter was in the hands of this military secretary. Upon the communication of the letter, it rushes all at once into the mind of Mr. Larkins, who knows Mr. Hastings's recollection, who knows what does, and what does not escape it, and who had a memory ready to explode at Mr. Hastings's desire: "Good God! (says he) you have promised the directors an account of this business!" a promise, which Mr. Larkins assures the directors, upon his word, had entirely escaped Mr. Hastings's recollection. Mr. Hastings it seems had totally forgotten the promise relative to the paltry sum of £.100.000 which he had made to the court of directors in the January before; he never once thought of it; no, not even when he was making up his accounts of that very identical sum, till the 22d of May. So that these persons answer for another's bad memory, and you will see they have good reason. Mr. Hastings's want of recollection appears in things of some moment. However lightly he may regard the sum of £.100,000, which, considering the enormous sums he has received, I dare say he does; for he totally forgot it; he knew nothing about it; observe what sort of memory this registrar and accountant of such sums as £.100,000 has. In what confusion of millions must it be, that such sums can be lost to Mr. Hastings's recollection! however, at last it was brought to his recollection, and he thought that it was necessary to give some account of it. And who is the accountant, whom he produces? His own memory is no accountant. He had dismissed the matter (as he happily expresses it in the Cheltenham letter) from his memory. Major Palmer is not the accountant. One is astonished that a man, who had had £.100,000 in his hands, and laid it out as he pretends in the public service, has not a scrap of paper to show for it. No ordinary or extraordinary account is given of it. Well, what is to be done in such circumstances? He sends for a person, whose name you have heard and will often hear of, the faithful Cantoo Baboo. This man comes to Mr. Larkins, and he reads to him (be so good as to remark the words) from a Bengal paper, the account of the detached bribes. Your lordships will observe, that I have stated the receipt of a number of detached bribes; and a bribe in one great body. One, the great corps d'armée; the other, flying scouting bodies, which were only to be collected together by a skilful man, who knew how to manage them, and regulate the motions of those wild and disorderly troops. When No. 2 was to be explained, Cantoo Baboo failed him; he was not worth a farthing as to any transaction that happened when Mr. Hastings was in the upper provinces; where, though he was his faithful and constant attendant through the whole, yet he could give no account of it. Mr. Hastings's moonshee then reads three lines from a paper to Mr. Larkins. Now, it is no way even insinuated, that both the Bengal and Persian papers did not contain the account of other immense sums; and indeed, from the circumstance of only three lines being read from the Persian paper, your lordships will be able in your own minds to form some judgment upon this business.

I shall now proceed with his letter of explanation. "The particulars," he goes on to say, "of the paper No. 1 were read to me from a Bengal paper, by Mr. Hastings's banyan, Cantoo Baboo: and if I am not mistaken, the three first lines of that No. 2 were read over to me, from a Persian paper, by his moonshee. The translation of these particulars, made by me, was, as I verily believe, the first complete memorandum that he ever possessed of them in the English language; and I am confidant, that if I had not suggested to him the necessity of his taking this precaution, he would, at this moment, have been unable to have afforded any such information concerning them."

Now, my lords, if he had not got, on the intimation of Mr. Larkins, some scraps of paper, your lordships might have, at this day, wanted that valuable information, which Mr. Larkins has laid before you. These however contain, Mr. Larkins says, "the first complete" — what? — account, do you imagine? no, "the first complete *memorandum*." You would imagine, that he would himself, for his own use, have notched down somewhere or other, in short-hand, in Persian characters, short without vowels, or in some other way,

memorandums: but he had not himself even a memorandum of this business; and, consequently, when he was at Cheltenham, and even here at your bar, he could never have had any account of a sum of £.200,000, but by this account of Mr. Larkins, taken, as people read them, from detached pieces of paper.

One would have expected that Mr. Larkins, being warned that day, and cautioned by the strange memory of Mr. Hastings, and the dangerous situation, therefore, in which he himself stood, would, at least, have been very guarded and cautious: Hear what he next says upon this subject. "As neither of the other sums passed through his hands, these (meaning the scraps) contained no such specification, and, consequently, could not enable him to afford the information, with which he has requested me to furnish you: and it is more than probable, that if the affidavits, which I took on the 16th December 1782, had not exposed my character to the suspicion of my being capable of committing one of the basest trespasses upon the confidence of mankind, I should, at this distance of time, have been equally unable to have complied with this request: but, after I became acquainted with the insinuation suggested in the eleventh report of the select committee of the House of Commons, I thought it but too probable, that unless I was possessed of the original memorandum, which I had made of these transactions, I might not at some distant period be able to prove, that I had not descended to commit so base an action. I have, therefore, always most carefully preserved every paper, which I possessed regarding these transactions."

You see, that Mr. Hastings had no memorandums of his accounts; you see, that after Mr. Larkins had made his memorandums of them, he had no design of guarding or keeping them; and you will commend those wicked and malicious committees, who, by their reports, have told an accountant-general and first public officer of revenue, that, in order to guard his character from their suspicions, it was necessary that he should keep some paper or other of an account. We have heard of the base, wicked, and mercenary license, that has been used by these gentlemen of India towards the House of Commons; a license to libel and traduce the diligence of the House of Commons, the purity of their motives, and the fidelity of their actions, by which the very means of informing the people are attempted to be used for the purpose of leaving them in darkness and delusion. But, my lords, when the accountant-general declares, that, if the House of Commons had not expressed, as they ought to express, much diffidence, and distrust, respecting these transactions, and even suspected him of perjury, this very day that man would not have produced a scrap of those papers to you, but might have turned them to the basest and most infamous of uses. If, I say, we have saved these valuable fragments by suspecting his integrity, your lordships will see, suspicion is of some use; and I hope the world will learn that punishment will be of use too, in preventing such transactions.

Your lordships have seen that no two persons know any thing of these transactions: you see, that even memorandums of transactions of very great moment, some of which had passed in the year 1779, were not even so much as put in the shape of complete memoranda, until May 1782: you see, that Mr. Hastings never kept them: and there is no reason to imagine that a black banyan and a Persian moonshee would have been careful of what Mr. Hastings himself, who did not seem to stimulate his accountants to a vast deal of exactness and a vast deal of fidelity, was negligent. You see, that Mr. Larkins, our last, our only hope, if he had not been suspected by the House of Commons, probably would never have kept these papers; and that you could not have had this valuable cargo, such as it is, if it had not been for the circumstance Mr. Larkins thinks proper to mention.

From the specimen, which we have given of Mr. Hastings's mode of accounts, of its vouchers, checks, and counter-checks, your lordships will have observed, that the mode itself is past describing; and that the checks, and counter-checks, instead of being put upon one another to prevent abuse, are put upon each other to prevent discovery, and to fortify abuse: When you hear that one man has an account of receipt, another of expenditure, another of controul, you say, that office is well constituted: but, here is an office constituted by different persons, without the smallest connexion with each other; for the only purpose, which they have ever answered, is the purpose of base concealment.

We shall now proceed a little further with Mr. Larkins. The first of the papers, from which he took the memoranda, was a paper of Cantoo Baboo; it contained detached payments, amounting in the whole, with the cabooleat, or agreement, to about £.95,000 sterling, and of which, it appears that there was

received by Mr. Croftes, £.55,000, and no more.

Now, will your lordships be so good as to let it rest in your memory, what sort of an exchequer this is, even with regard to its receipts. As your lordships have seen the economy and constitution of this office, so now see the receipt. It appears, that in the month of May 1782, out of the sums beginning to be received in the month of Shamar, that is, in July 1779, there was, during that interval, £.40,000 out of £.95,000 sunk somewhere, in some of the turnings over upon the gridiron, through some of those agents and panders of corruption, which Mr. Hastings uses. Here is the *valuable* revenue of the company, which is to *supply them in their exigencies, which is to come from sources, which otherwise never would have yielded it;* which, though small in proportion to the other revenue, yet is a diamond, something that by its value makes amends for its want of bulk; falling short by £.40,000 out of £95,000. Here is a system made for fraud, and producing all the effects of it.

Upon the face of this account, the agreement was to yield to Mr. Hastings, some way or other to be paid to Mr. Croftes, £.95,000, and there was a deficency of £.40,000. Would any man, even with no more sense than Mr. Hastings, who wants all the faculties of the human mind, who has neither memory nor judgment; any man, who was that poor half-idiot creature that Mr. Hastings pretends to be, engage in a dealing, that was to extort from some one or other an agreement to pay £.95 000, which was not to produce more than £.55,000? What, then, is become of it? Is it in the hands of Mr. Hastings's wicked bribe-brokers, or in his own hands? is it in arrear? do you know any thing about it? whom are you to apply to for information? why to G. G. S. G. G. S. I find to be, what indeed I suspected him to be, a person, that I have mentioned frequently to your lordships, and that you will often hear of, commonly called Gunga Govin Sing, in a short word, the wickedest of the whole race of banyans: the consolidated wickedness of the whole body is to be found in this man.

Of the deficiency, which appears in this agreement with somebody or other on the part of Mr. Hastings through Gunga Govin Sing, you will expect to hear some explanation. Of the first sum, which is said to have been paid through Gunga Govin Sing, amounting on the cabooleat to four lacks, and of which no more than two lacks was actually received; that is to say, half of it was sunk: we have this memorandum only, "Although Mr. Hastings was extremely dissatisfied with the excuses Gunga Govin Sing assigned for not paying Mr. Croftes the sums stated by the paper No. 1 to be in his charge, he never could obtain from him any further payments on this account." Mr. Hastings is exceedingly dissatisfied with those excuses, and this is the whole account of the transaction. This is the only thing said of Gunga Govin Sing, in the account; he neither states how he came to be employed, or for what he was employed. It appears however from the transaction, as far as we can make our way through this darkness, that he had actually received £.10,000 of the money, which he did not account for, and that he pretended that there was an arrear of the rest. So here Mr. Hastings's bribe-agent admits that he had received £.10,000, but he will not account for it; he says, There is an arrear of another £.10,000;—and thus it appears that he was enabled to take from somebody at Dinagepore, by a cabooleat, £.40,000, of which Mr. Hastings can get but £.20.000: there is cent. per cent. loss upon it. Mr. Hastings was so exceedingly dissatisfied with this conduct of Gunga Govin Sing, that you would imagine a breach would have immediately ensued between them. I shall not anticipate what some of my honourable friends will bring before your lordships; but I tell you, that so far from quarrelling with Gunga Govin Sing, or being really angry with him, it is only a little pettish love quarrel with Gunga Govin Sing; *amantium iræ amoris integratio est.* For Gunga Govin Sing, without having paid him one shilling of this money, attended him to the Ganges: and one of the last acts of Mr. Hastings's government was to represent this man, who was unfaithful even to fraud, who did not keep the common faith of thieves and robbers; this very man he recommends to the company as a person who ought to be rewarded, as one of their best and most faithful servants: and how does he recommend him to be rewarded? By giving him the estate of another person; the way in which Mr. Hastings desires to be always rewarded himself. For, in calling upon the company's justice, to give him some money for expenses, with which he never charged them, he desires them to assign him the money upon some person of the country. So here Mr. Hastings recommends Gunga Govin Sing not only to trust, confidence, and employment, which he does very fully, but to a reward, taken out of the substance of other people. This is what Mr. Hastings has done with Gunga Govin Sing; and if such are the effects of his anger, what must be the effect of his

pleasure and satisfaction? Now I say that Mr. Hastings, who, in fact, saw this man among the very last with whom he had any communication in India, could not have so recommended him after this known fraud, in one business only, of £.20,000; he could not so have supported him; he could not so have caressed him; he could not so have employed him; he could not have done all this, unless he had paid to Mr. Hastings privately that sum of money, which never was brought into any, even of these miserable accounts: without some payment or other, with which Mr. Hastings was and ought to be satisfied, or unless Gunga Govin Sing had some dishonourable secret to tell of him, which he did not dare to provoke him to give a just account of; or lastly, unless the original agreement was, that half or a third of the bribe should go to Gunga Govin Sing.

Such is this patriotic scheme of bribery, this public-spirited corruption, which Mr. Hastings has invented upon this occasion, and by which, he thinks, out of the vices of mankind, to draw a better revenue than out of any legal source whatever; and, therefore, he has resolved to become the most corrupt of all governours-general, in order to be the most useful servant to the finances of the company.

So much as to the first article of Dinagepore peshcush. All you have is, that G. G. S. is Gunga Govin Sing: that he has cheated the public of half of it; that Mr. Hastings was angry with him; and yet went away from Bengal, rewarding, praising, and caressing him. Are these things to pass as matters of course? They cannot so pass with your lordships' sagacity; I will venture to say, that no court, even of *pie-poudre*, could help finding him guilty upon such a matter, if such a court had to inquire into it.

The next article is *Patna*. Here, too, he was to receive £.40,000, but from whom, this deponent saith not: at this circumstance, Mr. Larkins, who is a famous deponent, never hints once. You may look through his whole letter, which is a pretty long one, and which I will save your lordships the trouble of hearing read at length now, because you will have it before you when you come to the Patna business; and you will only find, that somebody had engaged to pay him £.40,000, and that but half of this sum was received. You want an explanation of this. You have seen the kind of explanation given in the former case, a conjectural explanation of G. G. S. But when you come to the present case, who the person paying was, why the money was not paid, what the cause of failure was, you are not told; you only learn that there was that sum deficient; and Mr. Larkins, who is our last resort, and final hope of elucidation in this transaction, throws not the smallest glimpse of light upon it.

We, of the House of Commons, have been reduced to form the best legitimate conjectures we could upon this business, and those conjectures have led us to further evidence, which will enable us to fix one of the most scandalous and most mischievous bribes, in all the circumstances of it, upon Mr. Hastings, that was ever known. If he extorted £.40,000 under pretence of the company's service, here is again another failure of half the money. Oh, my lords! you will find, that even the remaining part was purchased with the loss of one of the best revenues in India, and with the grievous distress of a country, that deserved well your protection, instead of being robbed to give £.20,000 to the company, and another £.20,000 to some robber or other, black or white. When I say given to some other robber, black or white, I do not suppose that either generosity, friendship, or even communion, can exist in that country between white men and black; no, their colours are not more adverse than their characters and tempers. There is not that *idem velle et idem nolle:* there are none of those habits of life, nothing, that can bind men together even in the most ordinary society: the mutual means of such an union do not exist between them. It is a money dealing, and a money dealing only, which can exist between them; and when you hear that a black man is favoured, and that £.20,000 is pretended to be left in his hands, do not believe it: indeed, you cannot believe it; for we will bring evidence to show, that there is no friendship between these people: and that when black men give money to a white man, it is a bribe; and that when money is given to a black man, he is only a sharer with the white man, in their infamous profits. We find, however, somebody anonymous, with £.20,000 left in his hands; and when we come to discover who the man is, and the final balance, which appears against him in his account with the company, we find, that for this £.20,000 which was received for the company, they paid such a compound interest, as was never before paid for money advanced: the most violently griping usurer, in dealing with the most extravagant heir, never made such a bargain as Mr. Hastings has made for the company by this bribe. Therefore, it could be nothing but fraud, that could have got him

to have undertaken such a revenue. This evidently shows the whole to be a pretence to cover fraud, and not a weak attempt to raise a revenue; and that Mr. Hastings was not that idiot he represents himself to be, a man forgetting all his offices, all his duties, all his own affairs, and all the public affairs. He does not, however, forget how to make a bargain to get money; but when the money is to be recovered for the company, (as he says,) he forgets to recover it; so that the accuracy with which he begins a bribe, *acribus initiis et soperosa fine*, and the carelessness with which he ends it, are things, that characterize not weakness and stupidity, but fraud.

The next article we proceed to is *Nuddea*. Here, we have more light: But does Mr. Larkins any where tell you any thing about Nuddea? No; it appears as if the account had been paid up: and that the cabooleat, and the payments, answer and tally with each other; yet, when we come to produce the evidence upon these parts, you will see most abundant reason to be assured, that there is much more concealed, than is given in this account: that it is an account current, and not an account closed; and that the agreement was for some other and greater sum than appears. It might be expected that the company would inquire of Mr. Hastings, and ask, From whom did he get it,—who has received it,—who is to answer for it? But he knew that they were not likely to make any inquiry at all, they are not that kind of people. You would imagine that a mercantile body would have some of the mercantile excellencies, and even you would allow them perhaps some of the mercantile faults. But they have, like Mr. Hastings, forgotten totally the mercantile character; and accordingly, neither accuracy, nor fidelity of account do they ever require of Mr. Hastings. They have too much confidence in him; and he accordingly acts like a man, in whom such confidence, without reason, is reposed.

Your lordships may perhaps suppose that the payment of this money was an act of friendship and generosity in the people of the country? No; we have found out, and shall prove, from whom he got it; at least we shall produce such a conjecture upon it, as your lordships will think us bound to do, when we have such an account before us. Here on the face of the account there is no deficiency; but when we look into it, we find, skulking in a corner, a person called Nunduloll, from whom there is received 58,000 rupees. You will find that he, who appears to have paid up this money, and which Mr. Hastings spent as he pleased in his journey to Benares, and who, consequently, must have had some trust reposed in him, was the wickedest of men next to those I have mentioned; always giving the first rank to Gunga Govin Sing, *primus inter pares*, the second to Debi Sing, the third to Cantoo Baboo; this man is fit to be one next on a par with them. Mr. Larkins, when he comes to explain this article, says, "I believe, it is for a part of the Dinagepore peshcush, which would reduce the balance to about £.5,000;" but he does not pretend to know what it is given for; he gives several guesses at it; but he says, "As I do not know, I shall not pretend to give more than my conjecture upon it." He is in the right, because we shall prove Nunduloll never did or had any thing to do with the Dinagepore peshcush. These are very extraordinary proceedings. It is my business simply to state them to your lordships now, (we will give them in afterwards in evidence,) and I will leave that evidence to be confirmed and fortified by further observations.

One of the objects of Mr. Larkins's letter is to illustrate the bonds. He says, "The two first stated sums," namely, Dinagepore and Patna, in the paper marked No. 1, I suppose, for he seems to explain it to be such, "are sums for a part of which Mr. Hastings took two bonds; viz. No. 1539, dated 1st October 1780, and No. 1540, dated 2d October 1780, each for the sum of current rupees, 1,16,000, or sicca rupees one lack. The remainder of that amount was carried to the credit of the head, *Four per cent. Remittance Loan;* Mr. Hastings having taken a bond for it, (No. 89,) which has been since completely liquidated, conformable to the law." But, before I proceed with the bonds, I will beg leave to recall to your lordships' recollection, that Mr. Larkins states in his letter, that these sums were received in November. How does this agree with another state of the transaction, given by Mr. Hastings; viz. that the time of his taking the bonds was the 1st and 2d of October? Mr. Larkins, therefore, who has thought proper to say, that the money was received in the month of November, has here given as extraordinary an instance either of fraudulent accuracy, or shameful official inaccuracy, as was ever perhaps discovered. The first sums are asserted to be paid to Mr. Croftes on the 18th and 19th of Assen 1187: the month of Assen corresponds with the months of September and part of October, and not with November; and it is the more extraordinary that Mr. Larkins should mistake this, because he is in

an office which requires monthly payments, and, consequently, great monthly exactness, and a continual transfer from one month to another: we cannot suppose any accomptant in England can be more accurately acquainted with the succession of months, than Mr. Larkins must have been with the comparative state of Bengal and English months. How are we to account for this gross inaccuracy? If you have a poet, if you have a politician, if you have a moralist inaccurate, you know that these are cases, which from the narrow bounds of our weak faculties, do not perhaps admit of accuracy. But, what is an inaccurate *accomptant* good for? "Silly man, that dost not know thy own silly trade!" was once well said: but the trade here is not silly. You do not even praise an accomptant for being accurate, because you have thousands of them; but you justly blame a public accomptant, who is guilty of a gross inaccuracy. But what end could his being inaccurate answer—why not name October as well as November? I know no reason for it; but here is certainly a gross mistake; and, from the nature of the thing, it is hardly possible to suppose it to be a mere mistake. But, take it, that it is a mistake, and to have nothing of fraud, but mere carelessness;—this, in a man valued by Mr. Hastings for being very punctilious and accurate, is extraordinary.

But, to return to the bonds. We find a bond taken in the month of Sawun 1186 or 1779, but the receipt is said to be in Assen 1780: that is to say, there was a year and about three months between the collection and the receipt; and, during all that period of time, an enormous sum of money had lain in the hands of Gunga Govin Sing, to be employed, when Mr. Hastings should think fit. He employed it, he says, for the Mahratta expedition. Now, he began that letter on the 29th of November, by telling you, that the bribe would not have been taken from Cheit Sing, if it had not been at the instigation of an exigency, which it seems required a supply of money, to be procured lawfully or unlawfully. But in fact there was no exigency for it, before the Berar army came upon the borders of the country; that army, which he invited by his careless conduct towards the rajah of Berar, and whose hostility he was obliged to buy off by a sum of money: and yet this bribe was taken from Cheit Sing long before he had this occasion for it. The fund lay in Gunga Govin Sing's hands; and he afterwards applied to that purpose a part of this fund, which he must have taken without any view whatever to the company's interest. This pretence of the exigency of the company's affairs is the more extraordinary, because the first receipt of these moneys was some time in the year 1779; (I have not got the exact date of the agreement:) and it was but a year before that the company was so far from being in distress, that he declared he should have, at very nearly the period when this bribe became payable, a very large sum (I do not recollect the precise amount) in their treasury. I cannot certainly tell when the cabooleat, or agreement, was made, yet I shall lay open something very extraordinary upon that subject, and will lead you, step by step, to the bloody scenes of Debi Sing. Whilst, therefore, Mr. Hastings was carrying on these transactions, he was carrying them on without any reference to the pretended object, to which he afterwards applied them. It was an old premeditated plan; and the money to be received could not have been designed for an exigency, because it was to be paid by monthly instalments. The case is the same with respect to the other cabooleats. It could not have been any momentary exigence, which he had to provide for by these sums of money; they were paid regularly, period by period, as a constant uniform income to Mr. Hastings.

You find then Mr. Hastings first leaving this sum of money for a year and three months in the hands of Gunga Govin Sing; you find that when an exigence pressed him, by the Mahrattas suddenly invading Bengal, and he was obliged to refer to his bribe-funds, he finds that fund empty, and that in supplying money for this exigence, he takes a bond for two-thirds of his own money, and one-third of the company's. For, as I stated before, Mr. Larkins proves of one of these accounts, that he took, in the month of January for this bribe-money, which, according to the principles he lays down, was the company's money, three bonds as for money advanced from his own cash. Now this sum of three lacks, instead of being all his own, as it should appear to be in the month of January when he took the bonds; or two-thirds his own and one-third the company's, as he said in his letter of the 29th of November; turns out by Mr. Larkins's account, paragraph 9, which I wish to mark to your lordships, to be two-thirds the company's money and one-third his own; and yet it is all confounded under bonds, as if the money had been his own. What can you say to this heroic sharper, disguised under the name of a patriot, when you find him to be nothing but a downright cheat, first taking money under

the company's name, then taking their securities to him for their own money, and afterwards entering a false account of them; contradicting that by another account, and God knows whether the third be true or false? These are not things, that I am to make out by any conclusion of mine; here they are, made out by himself and Mr. Larkins, and comparing them with his letter of the 27th, you find a gross fraud covered by a direct falsehood.

We have now done with Mr. Larkins's account of the bonds; and are come to the other species of Mr. Hastings's frauds, (for there is a great variety in them) and first to Cheit Sing's bribe. Mr. Larkins came to the knowledge of the bond-money through Gunga Govin Sing and through Cantoo Baboo: of this bribe he was not in the secret originally, but was afterwards made a confidant in it: it was carried to him; and the account he gives of it I will state to your lordships. "The fourth sum stated in Mr. Hastings's account was the produce of sundry payments made to me by Sadamund, Cheit Sing's buxey, who either brought or sent the gold mohurs to my house, from whence they were taken by me to Mr. Croftes, either on the same night or early in the morning after: they were made at different times, and I well remember that the same people never came twice. On the 21st June 1780, Mr. Hastings sent for me, and desired that I would take charge of a present, that had been offered to him by Cheit Sing's buxey, under the plea of atoning for the opposition, which he had made towards the payment of the extra subsidy for defraying part of the expenses of the war; but really in the hope of its inducing Mr. Hastings to give up that claim; with which view the present had first been offered. Mr. Hastings declared, that although he would not take this for his own use, he would apply it to that of the company, in removing Mr. Francis's objections to the want of a fund for defraying the extra expenses of Colonel Camac's detachment. On my return to the office, I wrote down the substance of what Mr. Hastings had said to me, and requested Mr. James Miller, my deputy, to seal it up with his own seal, and write upon it, that he had then done so at my request. He was no further informed of my motive for this, than merely that it contained the substance of a conversation, which had passed between me and another gentleman, which, in case that conversation should hereafter become the subject of inquiry, I wished to be able to adduce the memorandum then made of it, in corroboration of my own testimony; and although that paper has remained unopened to this hour, and notwithstanding that I kept no memorandum whatever of the substance thereof, yet, as I have wrote this representation under the most scrupulous adherence to what I conceived to be truth, should it ever become necessary to refer to this paper, I am confident that it will not be found to differ materially from the substance of this representation."

I forgot to mention, that besides these two bonds, which Mr. Hastings declared to be the company's, and one bond his own, that he slipped into the place of the bond of his own a much better, namely, a bond of November, which he never mentioned to the company till the 22d of May; and this bond for current rupees one lack, seventy-four thousand, or sicca rupees 1,50,000, was taken for the payment stated in the paper No. 1, to have been made to Mr. Croftes on the 11th August 1187, which corresponds to the 23d of November 1780. This is the Nuddea money, and this is all that you know of it; you know that this money, for which he had taken this other bond from the company, was not his own neither, but bribes taken from the other provinces.

I am ashamed to be troublesome to your lordships in this dry affair, but the detection of fraud requires a good deal of patience and assiduity, and we cannot wander into any thing, that can relieve the mind; if it was in my power to do it I would do it. I wish however to call your lordships' attention to this last bribe, before I quit these bonds. Such is the confusion, so complicated, so intricate are these bribe accounts, that there is always something left behind, glean never so much from the paragraphs of Mr. Hastings and Mr. Larkins. I could not bring them to account, says Mr. Larkins. They were received before the 1st and 2d of October. Why does not the running treasury account give an account of them? The committee of the House of commons examined, whether the running treasury account had any such account of sums deposited: no such thing; they are said by Mr. Hastings to be deposited in June; they were not deposited in October, nor any account of them given till the January following. "These bonds (says he) I could not enter them as regular money to be entered on the company's account, or in any public way, until I had an order of the governour-general and council." But why had not you an order of the governour-general and council? We are not calling on you, Mr. Larkins, for an account of your

conduct: we are calling upon Mr. Hastings for an account of his conduct, and which he refers to you to explain. Why did not Mr. Hastings order you to carry them to the public account. "Because (says he) there was no other way." Every one, who knows any thing of a treasury or public banking-place, knows, that if any person brings money as belonging to the public, that the public accomptant is bound, no doubt, to receive it, and enter it as such: "But (says he) I could not do it until the account could be settled, as between debtor and creditor: I did not do it till I could put on one side durbar charges, secret service, to such an amount; and balance that again with bonds to Mr. Hastings:" that is, he could not make an entry regularly in the company's books until Mr. Hastings had enabled him to commit one of the grossest frauds and violations of a public trust, that ever was committed, by ordering that money of the company's to be considered as his own, and a bond to be taken as a security for it from the company, as if it was his own.

But to proceed with this deposit. What is the substance of Mr. Larkins's explanation of it? The substance of this explanation is, that here was a bribe received by Mr. Hastings from Cheit Sing, guarded with such scrupulous secrecy, that it was not carried to the house of Mr. Croftes, who was to receive it finally, but to the house of Mr. Larkins, as a less suspected place; and that it was conveyed in various sums, no two people ever returning twice with the various payments, which made up that sum of £.23,000 or thereabouts. Now, do you want an instance of prevarication, and trickery in an account? If any person should inquire whether £.23,000 had been paid by Cheit Sing to Mr. Hastings, there was not any one man living, or any person concerned in the transaction, except Mr. Larkins, who received it, that could give an account of how much he received, or who brought it. As no two people are ever his confidants in the same transaction in Mr. Hastings's accounts, so here no two people are permitted to have any share whatever in bringing the several fragments, that make up this sum. This bribe, you might imagine, would have been entered by Mr. Larkins to some public account, at least to the fraudulent account of Mr. Hastings. No such thing; it was never entered, till the November following. It was not entered, till Mr. Francis had left Calcutta. All these corrupt transactions were carried on privately by Mr. Hastings alone, without any signification to his colleagues of his carrying on this patriotic traffic, as he called it. Your lordships will also consider both the person who employs such a fraudulent accomptant, and his ideas of his duty in his office. These are matters for your lordships' grave determination; but I appeal to you, upon the face of these accounts, whether you ever saw any thing so gross; and whether any man could be daring enough to attempt to impose upon the credulity of the weakest of mankind, much more to impose upon such a court as this, such accounts as these are.

If the company had a mind to inquire what is become of all the debts due to them, and where is the cabooleat, he refers them to Gunga Govin Sing. Give us (say they) an account of this balance, that remains in your hands. I know (says he) of no balance. Why, is there not a cabooleat; where is it; what are the date and circumstances of it? There is no such cabooleat existing. This is the case even where you have the name of the person through whose hands the money passed. But suppose the inquiry went to the payments of the Patna cabooleat; Here (they say) we find half the money due; out of forty thousand pounds there is only twenty thousand received; give us some account of it. Who is to give an account of it? Here, there is no mention made of the name of the person, who had the cabooleat: whom can they call upon? Mr. Hastings does not remember; Mr. Larkins does not tell; they can learn nothing about it. If the directors had a disposition, and were honest enough to the proprietors and the nation, to inquire into it, there is not a hint given, by either of those persons, who received the Nuddea, who received the Patna, who received the Dinagepore peshcush.

But, in what court can a suit be instituted, and against whom, for the recovery of this balance of £.40,000 out of £.95,000? I wish your lordships to examine strictly this account, to examine strictly every part, both of the account itself, and Mr. Larkins's explanation: compare them together, and divine, if you can, what remedy the company could have for their loss. Can your lordships believe, that this can be any other than a systematical, deliberate fraud, grossly conducted? I will not allow Mr. Hastings to be the man, he represents himself to be; he was supposed to be a man of parts: I will only suppose him to be a man of mere common sense. Are these the accounts we should expect from such a man? And yet he and Mr. Larkins are to be magnified to heaven for great financiers; and this is to be called book-keeping. This is the Bengal ac-

count saved so miraculously on the 22d of May.

Next comes the Persian account. You have heard of a present, to which it refers. It has been already stated, but it must be a good deal farther explained. Mr. Larkins states, that this account was taken from a paper, of which three lines, and only three lines, were read to him by a Persian moonshee; and it is not pretended, that this was the whole of it. The three lines read are as follows. "From the nabob (meaning the nabob of Oude) to the governour-general, six lacks, £.60,000: From Hussein Reza Khân and Hyder Beg Khân to ditto, three lacks, £.30,000; and ditto to Mrs. Hastings, one lack, £.10,000."

Here, I say, are the three lines, that were read by a Persian moonshee. Is he a man you can call to account for these particulars? No; he is an anonymous moonshee: his name is not so much as mentioned by Mr. Larkins, nor hinted at by Mr. Hastings; and you find these sums, which Mr. Hastings mentions, as a sum in gross given to himself, are not so. They were given by three persons; one, six lacks, was given by the nabob to the governour: another of three lacks more by Hussein Reza Khân; and a third, one lack, by both of them clubbing, as a present to Mrs. Hastings. This is the first discovery, that appears, of Mrs. Hastings having been concerned in receiving presents for the governour-general and others, in addition to Gunga Govin Sing, Cantoo Baboo, and Mr. Crofts. Now, if this money was not received for the company, is it proper and right to take it from Mrs. Hastings? Is there honour and justice in taking from a lady a gratuitous present made to her? Yet Mr. Hastings says, he has applied it all to the company's service. He has done ill, in suffering it to be received at all, if she has not justly and properly received it. Whether in fact she ever received this money at all, she not being upon the spot, as I can find, at the time, (though to be sure, a present might be sent her, I neither affirm nor deny, farther than that as Mr. Larkins says, there was a sum of £.10,000 from these ministers to Mrs. Hastings. Whether she ever received any other money than this, I also neither affirm nor deny. But, in whatever manner Mrs. Hastings received this, or any other money, I must say, in this grave place in which I stand, that if the wives of governours-general, the wives of presidents of Council, the wives of the principal officers of the India company, through all the various departments, can receive presents, there is an end of the covenants, there is an end of the act of parliament, there is an end to every power of restraint. Let a man be but married, and if his wife may take presents, that moment the acts of parliament, the covenants, and all the rest expire! There is something too in the manners of the East, that makes this a much more dangerous practice. The people of the East, it is well known, have their zenana, the apartment for their wives, as a sanctuary, which nobody can enter—a kind of holy of holies—a consecrated place, safe from the rage of war, safe from the fury of tyranny. The rapacity of man has here its bounds: here you shall come and no farther. But, if English ladies can go into these zenanas, and there receive presents, the natives of Hindostan cannot be said to have any thing left of their own. Every one knows, that in the wisest and best time of the commonwealth of Rome, towards the latter end of it; (I do not mean the best time for morals, but the best for its knowledge how to correct evil government, and to choose the proper means for it;) it was an established rule, that no governour of a province should take his wife along with him into his province, wives not being subject to the laws in the same manner as their husbands: and though I do not impute to any one any criminality here; I should think myself guilty of a scandalous dereliction of my duty, if I did not mention the fact to your lordships. But I press it no further: here are the accounts, delivered in by Mr. Larkins at Mr. Hastings's own requisition.

The three lines, which were read out of a Persian paper, are followed by a long account of the several species, in which this present was received, and converted by exchange, into one common standard. Now, as these three lines of paper, which are said to have been read out of a Persian paper, contain an account of bribes to the amount of £.100,000; and as it is not even insinuated that this was the whole of the paper, but rather the contrary indirectly implied, I shall leave it for your lordships, in your serious consideration, to judge what mines of bribery that paper might contain. For why did not Mr. Larkins get the whole of that paper read and translated? The moment any man stops in the midst of an account, he is stopping in the midst of a fraud.

My lords, I have one further remark to make upon these accounts: The cabooleats, or agreements for the payments of these bribes, amount, in the three specified provinces, to £.95,000. Do you believe, that these provinces were thus particularly favoured? Do you

think, that they were chosen as a little demesne for Mr. Hastings? That they were the only provinces honoured with his protection, so far as to take bribes from them? Do you perceive any thing in their local situation, that should distinguish them from other provinces of Bengal? What is the reason why Dinagepore, Patna, Nuddea, should have the post of honour assigned them? What reason can be given for not taking bribes also from Burdwan, from Bishanpore, in short, from all the sixty-eight collections, which comprise the revenues of Bengal, and for selecting only three? How came he, I say, to be so wicked a servant, that, out of sixty-eight divisions, he chose only three to supply the exigencies of the company? He did not do his duty in making this distinction, if he thought that bribery was the best way of supplying the company's treasury; and that it formed the most useful and effectual resource for them; which he has declared over and over again. Was it right to lay the whole weight of bribery, extortion, and oppression, upon those three provinces, and neglect the rest? No; you know, and must know, that he, who extorts from three provinces, will extort from twenty, if there are twenty. You have a standard, a measure of extortion, and that is all; *ex pede Herculem:* guess from thence what was extorted from all Bengal! Do you believe he could be so cruel to these provinces, so partial to the rest, as to charge them with that load, with £.95,000, knowing the heavy oppression they were sinking under, and leave all the rest untouched? You will judge of what is concealed from us by what we have discovered through various means, that have occurred in consequence both of the guilty conscience of the person, who confesses the fact with respect to these provinces, and of the vigour, perseverance, and sagacity of those, who have forced from him that discovery. It is not therefore for me to say, that the £.100,000 and £.95,000 only were taken. Where the circumstances entitle me to go on, I must not be stopped, but at the boundary where human nature has fixed a barrier.

You have now before you the true reason why he did not choose that this affair should come before a court of justice. Rather than this exposure should be made, he to-day would call for the mountains to cover him: he would prefer an inquiry into the business of the three seals; into any thing foreign to the subject I am now discussing, in order to keep you from the discovery of that gross bribery, that shameful peculation, that abandoned prostitution and corruption, which he has practised with indemnity and impunity to this day, from one end of India to the other.

At the head of the only account we have of these transactions stands Dinagepore; and it now only remains for me to make some observations upon Mr. Hastings's proceedings in that province. Its name, then, and that money was taken from it, is all that appears; but from whom, by what hands, by what means, under what pretence, it was taken, he has not told you; he has not told his employers. I believe, however, I can tell from whom it was taken: and I believe it will appear to your lordships, that it must have been taken from the unhappy rajah of Dinagepore; and I shall in a very few words state the circumstances attending and the service performed for it: from these you will be able to form a just opinion concerning this bribe.

Dinagepore, a large province, was possessed by an antient family, the last of which, about the year 1184 of their era, the rajah Bijanaut, had no legitimate issue. When he was at the point of death, he wished to exclude from the succession to the zemindary, his half brother, Cantoo Naut, with whom he had lived upon ill terms for many years, by adopting a son. Such an adoption, when a person has a half brother, as he had, in my poor judgment, is not countenanced by the Gentoo laws. But Gunga Govin Sing, who was placed by the office he held, at the head of the registry, where the records were kept, by which the rules of succession according to the custom of the country are ascertained, became master of these Gentoo laws; and through his means Mr. Hastings decreed in favour of the adoption. We find, that immediately after this decree, Gunga Govin Sing received a cabooleat on Dinagepore for the sum of £.40,000, of which it appears, that he has actually exacted £.30,000, though he has paid to Mr. Hastings only £.20,000. We find, before the young rajah had been in possession a year, his natural guardians and relations, on one pretence or another, all turned out of their offices. The peshcush, or fixed annual rent payable to the company for his zemindary, fell into arrear, as might naturally be expected, from the rajah's inability to pay both his rent and this exorbitant bribe, extorted from a ruined family. Instantly, under pretext of this arrearage, Gunga Govin Sing, and the fictitious committee, which Mr. Hastings had made for his wicked purposes, composed of Mr. Anderson, Mr. Shore, and Mr. Croftes, who

were but the tools, as they tell us themselves, of Gunga Govin Sing, gave that monster of iniquity, Debi Sing, the government of this family. They put this noble infant, this miserable rajah, together with the management of the provinces of Dinagepore and Rungpore, into his wicked and abominable hands; where the ravages he committed excited what was called a rebellion, that forced him to fly from the country, and into which I do not wonder he should be desirous that a political and not a juridical inquiry should be made. The savage barbarities, which were there perpetrated, I have already, in the execution of my duty, brought before this House and my country; and it will be seen, when we come to the proof, whether what I have asserted was the effect either of a deluded judgment or disordered imagination; and whether the facts I state cannot be substantiated by authentic reports, and were none of my invention: and, lastly, whether the means, that were taken to discredit them, do not infinitely aggravate the guilt of the offenders. Mr. Hastings wanted to fly from judicial inquiry; he wanted to put Debi Sing any where but in a court of justice. A court of justice, where a direct assertion is brought forward, and a direct proof applied to it, is an element in which he cannot live for a moment. He would seek refuge any where, even in the very sanctuary of his accusers, rather than abide a trial with him in a court of justice: but the House of Commons was too just not to send him to this tribunal, whose justice they cannot doubt, whose penetration he cannot elude, and whose decision will justify those managers, whose characters he attempted to defame.

But this is not all. We find, that after the cruel sale of this infant, who was properly and directly under the guardianship of the company, (for the company acts as steward and dewan of the province, which office has the guardianship of minors,) after he had been robbed of £.40,000 by the hands of Gunga Govin Sing, and afterwards, under pretence of his being in debt to the company, delivered into the hands of that monster, Debi Sing, Mr. Hastings, by way of anticipation of these charges, and in answer to them, has thought proper to produce the certificate from this unfortunate boy, which I will now again read to you:—

"I, Radanaut, zemindar of purgunnah Havely, Penjuna, &c. commonly called Dinagepore:—As it has been learned by me, the mutseddies, and the respectable officers of my zemindary, that the ministers of England are displeased with the late governour, Warren Hastings, Esq. upon the suspicion that he oppressed us, took money from us by deceit and force, and ruined the country; therefore we, upon the strength of our religion, which we think it incumbent on and necessary for us to abide by, following the rules laid down in giving evidence, declare the particulars of the acts and deeds of Warren Hastings, Esq. full of circumspection and caution, civility and justice, superiour to the caution of the most learned; and by representing what is fact, wipe away the doubts, that have possessed the minds of the ministers of England: That Mr. Hastings is possessed of fidelity and confidence, and yielding protection to us; that he is clear of the contamination of mistrust and wrong, and his mind is free of covetousness or avarice. During the time of his administration no one saw other conduct than that of protection to the husbandmen and justice; no inhabitant ever experienced afflictions, no one ever felt oppression from him; our reputations have always been guarded from attacks by his prudence, and our families have always been protected by his justice. He never omitted the smallest instance of kindness towards us, but healed the wounds of despair with the salve of consolation, by means of his benevolent and kind behaviour, never permitting one of us to sink in the pit of despondence. He supported every one by his goodness; overset the designs of evil-minded men by his authority; tied the hands of oppression with the strong bandage of justice, and by these means expanded the pleasing appearance of happiness and joy over us: he re-established justice and impartiality. We were, during his government, in the enjoyment of perfect happiness and ease, and many of us are thankful and satisfied. As Mr. Hastings was well acquainted with our manners and customs, he was always desirous, in every respect, of doing whatever would preserve our religious rights, and guard them against every kind of accident and injury; and at all times protected us. Whatever we have experienced from him, and whatever happened from him, we have written without deceit or exaggeration."

My lords, this Radanaut, zemindar of the purgunnah, who, as your lordships hear, bears evidence upon oath to all the great and good qualities of the governour, and particularly, to his absolute freedom from covetousness; this person, to whom Mr. Hastings appeals, was, as the committee state, a boy between five and six years old at the time when he was

given into the hands of Debi Sing; and when Mr. Hastings left Bengal, which was in 1786, was between eleven and twelve years old? This is the sort of testimony, that Mr. Hastings produces, to prove, that he was clear from all sort of extortion, oppression, and covetousness, in this very zemindary of Dinagepore. This boy, who is so observant, who is so penetrating, who is so accurate in his knowledge of the whole government of Mr. Hastings, was, I say, when he left his government, at the utmost, but eleven years and a half old. Now, to what an extremity is this unhappy man at your bar driven, when oppressed by this accumulative load of corruption charged upon him, and seeing his bribery, his prevarication, his fraudulent bonds brought before you, he gives the testimony of this child, who for the greatest part of his time lived 300 miles from the seat of Mr. Hastings's government. Consider the miserable situation of this poor unfortunate boy, made to swear, with all the solemnities of his religion, that Mr. Hastings was never guilty in his province of any act of rapacity. Such are the testimonies, which are there called rozannammas, in favour of Mr. Hastings, with which all India is said to sound. Do we attempt to conceal them from your lordships? No, we bring them forth to show you the wickedness of the man, who, after he has robbed innocence, after he has divided the spoil between Gunga Govin Sing and himself, gets the party robbed to perjure himself for his sake, if such a creature is capable of being guilty of perjury. We have another rozannamma sent from Nuddea, by a person nearly under the same circumstances with Radanaut, namely, Maha Rajah Dheraja Scolbrûnd Bahadre, only made to differ in some expressions from the former, that it might not appear to originate from the same hand. These miserable rozannammas he delivers to you as the collected voice of the country, to show how ill-founded the impressions are which committees of the House of Commons (for to them they allude, I suppose) have taken concerning this man, during their inquiries into the management of the affairs of the company in India.

Before I quit this subject, I have only to give you the opinion of Sir Elijah Impey, a name consecrated to respect for ever, (your lordships know him in this house as well as I do) respecting these petitions and certificates of good behaviour:—

"From the reasons and sentiments, that they contain, &c.

[*This document cannot be found.*]

The moment an Englishman appears, as this gentleman does in the province of Dinagepore, to collect certificates for Mr. Hastings, it is a command for them, the people, to say what he pleases.

And here, my lords, I would wish to say something of the miserable situation of the people of that country; but it is not in my commission, and I must be silent; and shall only request your lordships to observe, how this crime of bribery grows in its magnitude. First, the bribe is taken through Gunga Govin Sing, from this infant, for his succession to the zemindary. Next follows, the removal from their offices, and consequent ruin, of all his nearest natural relations. Then the delivery of the province to Debi Sing, upon the pretence of the arrears due to the company, with all the subsequent horrours committed under the management of that atrocious villain. And lastly, the gross subornation of perjury, in making this wretched minor, under twelve years of age, bear testimony, upon oath, to the good qualities of Mr. Hastings, and of his government; this minor, I say, who lived 300 miles from the seat of his government, and who, if he knew any thing at all of his own affairs, must have known that Mr. Hastings was the cause of all his sufferings.

My lords, I have now gone through the whole of what I have in charge. I have laid before you the covenants, by which the company have thought fit to guard against the avarice and rapacity of their governours. I have shown, that they positively forbid the taking of all sorts of bribes and presents: and I have stated the means adopted by them for preventing the evasion of their orders, by directing, in all money transactions, the publicity of them. I have farther shown, that, in order to remove every temptation to a breach of their orders, the next step was the framing a legal fiction, by which presents and money, under whatever pretence taken, were made the legal property of the company, in order to enable them to recover them out of any rapacious hands, that might violate the new act of parliament. I have also stated this act of parliament. I have stated Mr. Hastings's sense of it. I have stated the violation of it by his taking bribes from all quarters. I have stated the fraudulent bonds, by which he claimed a security for money as his own, which belonged to the company. I have stated the series of frauds, prevarications, concealments, and all that mystery of iniquity, which I waded through with pain

to myself, I am sure, and with infinite pain, I fear, to your lordships. I have shown your lordships, that his evasions of the clear words of his covenant, and the clear words of an act of parliament, were such as did not arise from an erroneous judgment, but from a corrupt intention: and, I believe, you will find, that his attempt to evade the law aggravates infinitely his guilt in breaking it. In all this I have only *opened* to you the package of this business; I have opened it to ventilate it, and give air to it: I have opened it, that a quarantine might be performed; that the sweet air of heaven, which is polluted by the poison it contains, might be let loose upon it, and that it may be aired and ventilated before your lordships touch it. Those, who follow me, will endeavour to explain to your lordships, what Mr. Hastings has endeavoured to involve in mystery, by bringing proof after proof, that every bribe, that was here concealed, was taken with corrupt purposes, and followed with the most pernicious consequences. These are things, which will be brought to you in proof. I have only regarded the system of bribery; I have endeavoured to show, that it is a system of mystery and concealment; and, consequently, a system of fraud.

You now see some of the means, by which fortunes have been made, by certain persons, in India; you see, the confederacies they have formed with one another for their mutual concealment and mutual support; you will see, how they reply to their own deceitful inquiries by fraudulent answers; you will see, that Cheltenham calls upon Calcutta, as one deep calls upon another; and that the call, which is made for explanation, is answered in mystery; in short, you will see the very constitution of their minds here developed.

And now, my lords, in what a situation are we all placed. This prosecution of the Commons (I wish to have it understood, and I am sure I shall not be disclaimed in it) is a prosecution not only for the punishing a delinquent, a prosecution not merely for preventing this and that offence, but it is a great censorial prosecution, for the purpose of preserving the manners, characters, and virtues, that characterize the people of England. The situation in which we stand is dreadful. These people pour in upon us every day. They not only bring with them the wealth, which they have acquired, but they bring with them into our country the vices by which it was acquired. Formerly the people of England were censured, and, perhaps properly, with being a sullen, unsocial, cold, unpleasant race of men; and as inconstant as the climate in which they are born. These are the vices, which the enemies of the kingdom charged them with, and people are seldom charged with vices, of which they do not in some measure partake. But nobody refused them the character of being an open-hearted, candid, liberal, plain, sincere people; qualities, which would cancel a thousand faults, if they had them.

But if, by conniving at these frauds, you once teach the people of England a concealing, narrow, suspicious, guarded conduct: if you teach them qualities directly the contrary to those by which they have hitherto been distinguished: if you make them a nation of concealers, a nation of dissemblers, a nation of liars, a nation of forgers; my lords, if you, in one word, turn them into a people of *banyans*, the character of England, that character, which more than our arms and more than our commerce has made us a great nation, the character of England will be gone and lost.

Our liberty is as much in danger, as our honour and our national character. We, who here appear representing the Commons of England, are not wild enough, not to tremble both for ourselves and for our constituents, at the effect of riches: "*Opum metuenda potestas.*" We dread the operation of money. Do we not know, that there are many men, who wait, and who indeed hardly wait, the event of this prosecution, to let loose all the corrupt wealth of India, acquired by the oppression of that country, for the corruption of all the liberties of this: and to fill the parliament with men, who are now the object of its indignation. To-day, the Commons of Great Britain prosecute the delinquents of India. To-morrow the delinquents of India may be the Commons of Great Britain. We know, I say, and feel the force of money; and we now call upon your lordships for justice in this cause of money. We call upon you for the preservation of our manners—of our virtues. We call upon you for our national character. We call upon you for our liberties; and hope, that the freedom of the Commons will be preserved by the justice of the lords.

*** In this article Mr. Burke was supported on the 16th of February 1790, by Mr. Anstruther, who opened the remaining part of the sixth article, and part of the seventh article, and the evidence was summed up and enforced

by him. The rest of the evidence upon the sixth, and on part of the seventh, eighth, and fourteenth articles, were respectively opened and enforced by Mr. Fox and other of the managers, on the 7th and 9th of June, in the same session.

On the 23d May 1791, Mr. St. John opened the fourth article of charge; and evidence was heard in support of the same. In the following sessions of 1792, Mr. Hastings's counsel were heard in his defence, which was continued through the whole of the sessions of 1793.

On the 5th of March 1794, a select committee was appointed by the House of Commons to inspect the lords' journals, in relation to their proceeding on the trial of Warren Hastings, Esquire, and to report what they found therein to the House; (which committee were the managers appointed to make good the articles of impeachment against the said Warren Hastings, Esquire; (and who were afterwards instructed to report the several matters which had occurred since the commencement of the prosecution, and which had, in their opinion, contributed to the duration thereof to that time, with their observations thereupon.—On the 30th of April, the following report, written by Mr. Burke, and adopted by the committee, was presented to the House of Commons, and ordered by the House to be printed.—EDIT.

REPORT

MADE ON THE 30th APRIL 1794, FROM THE COMMITTEE OF THE HOUSE OF COMMONS, APPOINTED TO INSPECT THE LORDS' JOURNALS, IN RELATION TO THEIR PROCEEDING ON THE TRIAL OF WARREN HASTINGS, ESQUIRE, AND TO REPORT WHAT THEY FIND THEREIN TO THE HOUSE; (WHICH COMMITTEE WERE THE MANAGERS APPOINTED TO MAKE GOOD THE ARTICLES OF IMPEACHMENT AGAINST THE SAID WARREN HASTINGS, ESQUIRE;) AND WHO WERE AFTERWARDS INSTRUCTED TO REPORT THE SEVERAL MATTERS WHICH HAVE OCCURRED SINCE THE COMMENCEMENT OF THE SAID PROSECUTION, AND WHICH HAVE, IN THEIR OPINION, CONTRIBUTED TO THE DURATION THEREOF TO THE PRESENT TIME, WITH THEIR OBSERVATIONS THEREUPON.

YOUR committee has received two powers from the House—The first on the 5th of March 1794, to inspect the lords' journals, in relation to their proceedings on the trial of Warren Hastings, Esquire, and to report what they find therein to the House. The second is an instruction given on the 17th day of the same month of March, to this effect: That your committee do report to this House, the several matters which have occurred since the commencement of the said prosecution, and which have, in their opinion, contributed to the duration thereof to the present time, with their observations thereupon.

Your committee is sensible that the duration of the said trial, and the causes of duration, as well as the matters which have therein occurred, do well merit the attentive consideration of this House; we have therefore endeavoured, with all diligence, to employ the powers that have been granted, and to execute the orders that have been given to us, and to report thereon as speedily as possible, and as fully as the time would admit.

Your committee has considered, first, the mere fact of the duration of the trial, which they find to have commenced on the 13th day of February 1788, and to have continued, by various adjournments, to the said 17th of March. During that period the sittings of the court have occupied one hundred and eighteen days, or about one-third of a year. The distribution of the sitting days in each year is as follows

	Days.
In the year 1788, the court sat -	35
1789, - - -	17
1790, - - -	14
1791, - - -	5
1792, - - -	22
1793, - - -	22
1794, to the first of March, inclusive	3
Total - - -	118

Your committee then proceeded to consider the causes of this duration, with regard to time, as measured by the calendar, and also as

measured by the number of days occupied in actual sitting. They find, on examining the duration of the trial, with reference to the number of years which it has lasted, that it has been owing to several prorogations, and to one dissolution of parliament; to discussions which are supposed to have arisen in the House of Peers, on the legality of the continuance of impeachments from parliament to parliament; that it has been owing to the number and length of the adjournments of the court; particularly the adjournments on account of the circuit, which adjournments were interposed in the middle of the session, and the most proper time for business; that it has been owing to one adjournment, made in consequence of a complaint of the prisoner against one of your managers, which took up a space of ten days; that two days' adjournments were made on account of the illness of certain of the managers: and, as far as your committee can judge, two sitting days were prevented by the sudden and unexpected dereliction of defence of the prisoner at the close of the last sessions, your managers not having been then ready to produce their evidence in reply, nor to make their observations on the evidence produced by the prisoner's counsel; as they expected the whole to have been gone through before they were called on for their reply. In this session, your committee computes that the trial was delayed about a week or ten days. The lords waited for the recovery of the Marquis Cornwallis, the prisoner wishing to avail himself of the testimony of that noble person.

With regard to the 118 days employed in actual sitting, the distribution of the business was in the manner following: There were spent,

	Days.
In reading the articles of impeachment, and the defendant's answer, and in debate on the mode of proceeding	3
Opening speeches, and summing up by the managers - - - -	19
Documentary and oral evidence by the managers - - - -	51
Opening speeches and summing up by the defendant's counsel, and defendant's addresses to the court -	22
Documentary and oral evidence on the part of the defendant -	23
	118

The other head, namely, that the trial has occupied 118 days, or nearly one-third of a year. This your committee conceives to have arisen from the following immediate causes: First, The nature and extent of the matter to be tried. Secondly, The general nature and quality of the evidence produced; it was principally documentary evidence, contained in papers of great length, the whole of which was often required to be read, when brought to prove a single short fact; or it was oral evidence, in which must be taken into consideration the number and description of the witnesses examined and cross-examined. Thirdly, and principally, The duration of the trial is to attributed to objections taken by the prisoner's counsel to the admissibility of several documents and persons, offered as evidence on the part of the prosecution. These objecjections amounted to sixty-two: they gave rise to several debates, and to twelve references from the court to the judges. On the part of the managers, the number of objections was small; the debates upon them were short; there was not upon them any reference to the judges; and the lords did not even retire upon any of them to the chamber of parliament.

This last cause of the number of sitting days, your committee considers as far more important than all the rest. The questions upon the admissibility of evidence; the manner in which these questions were stated and were decided; the modes of proceeding; the great uncertainty of the principle upon which evidence in that court is to be admitted or rejected: all these appear to your committee materially to affect the constitution of the House of Peers, as a court of judicature, as well as its powers, and the purposes it was intended to answer in the state. The peers have a valuable interest in the conservation of their own lawful privileges: but this interest is not confined to the lords. The Commons ought to partake in the advantage of the judicial rights and privileges of that high court. Courts are made for the suitors, and not the suitors for the court. The conservation of all other parts of the law, the whole indeed of the rights and liberties of the subject, ultimately depends upon the preservation of the law of parliament in its original force and authority.

Your committee had reason to entertain apprehensions, that certain proceedings in this trial may possibly limit and weaken the means of carrying on any future impeachment of the Commons. As your committee felt these apprehensions strongly, they thought it their duty to begin with humbly summitting facts and observations, on the proceedings concerning evidence, to the consideration of this House,

before they proceed to state the other matters which come within the scope of the directions which they have received.

To enable your committee the better to execute the task imposed upon them, in carrying on the impeachment of this House, and to find some principle on which they were to order and regulate their conduct therein, they found it necessary to look attentively to the jurisdiction of the court in which they were to act for this House, and into its laws and rules of proceeding, as well as into the rights and powers of the House of Commons in their impeachments.

RELATION OF THE JUDGES, &c. TO THE COURT OF PARLIAMENT.

Upon examining into the course of proceeding in the House of Lords, and into the relation which exists between the peers on the one hand, and their attendants and assistants, the judges of the realm, barons of the exchequer of the coif, the king's learned council, and the civilians masters of the chancery, on the other; it appears to your committee, that these judges and other persons learned in the common and civil laws, are no integrant and necessary part of that court. Their writs of summons are essentially different; and it does not appear that they or any of them have, or of right ought to have, a deliberative voice, either actually or virtually, in the judgments given in the high court of parliament. Their attendance in that court is solely ministerial; and their answers to questions put to them, are not to be regarded as declaratory of the law of parliament, but are merely consultory responses, in order to furnish such matter (to be submitted to the judgment of the peers) as may be useful in reasoning by analogy, so far as the nature of the rules, in the respective courts of the learned persons consulted, shall appear to the House to be applicable to the nature and circumstance of the case before them, and no otherwise.

JURISDICTION OF THE LORDS.

Your committee finds, That in all impeachments of the Commons of Great Britain for high crimes and misdemeanours, before the peers in the high court of parliament, the peers are not triers or jurors only, but by the antient laws and constitution of this kingdom, known by constant usage, are judges both of law and fact; and we conceive that the lords are bound not to act in such a manner as to give rise to an opinion, that they have virtually submitted to a division of their legal powers; or that, putting themselves into the situation of mere triers or jurors, they may suffer the evidence in the cause to be produced or not produced before them, according to the discretion of the judges of the inferiour courts.

LAW OF PARLIAMENT.

Your committee finds, that the lords, in matter of appeal or impeachment in parliament, are not of right obliged to proceed according to the course or rules of the Roman civil law, or by those of the law or usage of any of the inferiour courts in Westminster Hall; but by the law and usage of parliament. And your committee finds, that this has been declared in the most clear and explicit manner, by the House of Lords, in the year of our Lord 1387 and 1388 in the 11th year of King Richard the Second.

Upon an appeal in parliament then depending, against certain great persons, peers and commoners, the said appeal was referred to the justices and other learned persons of the law; "At which time" (it is said in the record) "that the justices and serjeants, and others the learned in the law civil, were charged, by order of the king our sovereign aforesaid, to give their faithful counsel to the lords of the parliament, concerning the due proceedings in the cause of the appeal aforesaid. The which justices, serjeants, and the learned in the law of the kingdom, and also the learned in the law civil, have taken the same into deliberation; and have answered to the said lords of parliament, that they had seen and well considered the tenour of the said appeal; and they say, that the same appeal was neither made nor pleaded according to the order which the one law or the other requires. Upon which the said lords of parliament have taken the same into deliberation and consultation, and by the assent of our said lord the king, and of their common agreement, it was declared, that in so high a crime as that which is charged in this appeal, which touches the person of our lord the king, and the state of the whole kingdom, perpetrated by persons who are peers of the kingdom, along with others, the cause shall not be tried in any other place but in parliament, nor by any other law than the law and course of parliament; and that it belongeth to the lords of parliament, and to their franchize and liberty by the antient custom of the parliament, to be judges in such cases; and in these cases to judge by the assent of the king; and thus it shall be done in this case, by the award

of parliament: because the realm of England has not been heretofore, nor is it the intention of our said lord the king, and the lords of parliament, that it ever should be, governed by the law civil: And also, it is their resolution, not to rule or govern so high a cause as this appeal is, which cannot be tried any where but in parliament, as hath been said before, by the course, process, and order used in any courts or places inferiour, in the same kingdom; which courts and places are not more than the executors of the antient laws and customs of the kingdom, and of the ordinances and establishments of parliament. It was determined by the said lords of parliament, by the assent of our said lord the king, that this appeal was made and pleaded well and sufficiently, and that the process upon it is good and effectual, according to the law and course of parliament, and for such they decree and adjudge it."

And your committee finds, that toward the close of the same parliament, the same right was again claimed and admitted as the special privilege of the peers, in the following manner: "In this parliament, all the lords then present, spiritual as well as temporal, claimed as their franchize that the weighty matters moved in this parliament, and which shall be moved in other parliaments in future times, touching the peers of the land, shall be managed, adjudged, and discussed by the course of parliament, and in no sort by the law civil, or by the common law of the land, used in the other lower courts of the kingdom, which claim, liberty, and franchize, the king graciously allowed and granted to them in full parliament."

Your committee finds, that the Commons, having at that time considered the appeal above mentioned, approved the proceedings in it; and as far as in them lay, added the sanction of their accusation against the persons who were the objects of the appeal. They also, immediatly afterwards, impeached all the judges of the common pleas, the chief baron of the exchequer, and other learned and eminent persons, both peers and commoners; upon the conclusion of which impeachments it was that the second claim was entered. In all the transactions aforesaid, the Commons were acting parties: yet neither then nor ever since, have they made any objection or protestation that the rule laid down by the lords, in the beginning of the session of 1388, ought not to be applied to the impeachments of commoners as well as peers. In many cases they have claimed the benefit of this rule; and in all cases they have acted, and the peers have determined, upon the same general principles. The peers have always supported the same franchizes; nor are there any precedents upon the records of parliament subverting either the general rule or the particular privilege; so far as the same relates either to the course of proceeding or to the rule of law, by which the lords are to judge.

Your committee observes also, that in the commissions to the several lords high stewards, who have been appointed on the trials of peers impeached by the Commons, the proceedings are directed to be had according to the law and custom of the kingdom, *and the custom of parliament*; which words are not to be found in the commissions for trying upon indictments.

"As every court of justice" (says Lord Coke) "hath laws and customs for its direction, some by the common law, some by the civil and canon law, some by peculiar laws and customs, &c. so the high court of parliament, *suis propriis legibus et consuetudinibus subsistit*. It is by the lex et consuetudo parliamenti, that all weighty matters in and parliament moved, concerning the peers of the realm, or Commons in parliament assembled, ought to be determined, adjudged, and discussed by the course of the parliament, and not by the civil law, nor yet by the common laws of this realm used in more inferiour courts." And after founding himself on this very precedent of the 11th of Richard II, he adds, "*This is the reason that judges ought not to give any opinion of a matter of parliament, because it is not to be decided by the common laws, but secundum legem et consuetudinem parliamenti: And so the judges in divers parliaments have confessed.*"

RULE OF PLEADING.

Your committee do not find, that any rules of pleading, as observed in the inferiour courts, have ever obtained in the proceedings of the high court of parliament, in a cause or matter in which the whole procedure has been within their original jurisdiction. Nor does your committee find, that any demurrer or exception, as of false or erroneous pleading, hath been ever admitted to any impeachment in parliament, as not coming within the form of the pleading; and although a reservation or protest is made by the defendant (matter of form, as we conceive) "to the generality, uncertainty, and insufficiency of the articles of impeachment;" yet no objections have in fact been ever made in any part of the record; and when verbally they have been made (until this trial) they have constantly been overruled.

The trial of Lord Strafforde is one of the

most important eras in the history of parliamentary judicature. In that trial, and in the dispositions made preparatory to it, the process on impeachments was, on great consideration, research, and selection of precedents, brought very nearly to the form which it retains at this day; and great and important parts of parliamentary law were then laid down. The Commons at that time made new charges, or amended the old, as they saw occasion. Upon an application from the Commons to the lords, that the examinations taken by their lordships, at their request, might be delivered to them, for the purpose of a more exact specification of the charge they had made, on delivering the message of the Commons, Mr. Pim, among other things, said, as it is entered in the lords' journals, "According to the clause of reservation in the conclusion of their charge, they (the Commons) will add to the charges, not to the matter in respect of comprehension, extent, or kind, but only to reduce them to more particularities, that the earl of Strafforde might answer with the more clearness and expedition—not *that they are bound by this way of SPECIAL charge; and therefore they have taken care in their House, upon protestation, that this shall be no prejudice to bind them from proceeding in GENERAL in other cases, and that they are not to be ruled by proceedings in other courts, which protestation they have made for the preservation of the power of parliament; and they desire that the like care may be had in your lordships' house.*"

This protestation is entered on the lords' journals. Thus careful were the Commons that no exactness used by them for a temporary accommodation, should become an example derogatory to the larger rights of parliamentary process.

At length the question of their being obliged to conform to any of the rules below, came to a formal judgment. In the trial of Dr. Sacheverell, March 10th, 1709, the Lord Nottingham "desired their lordships' opinion, whether he might propose a question to the judges *here* [in Westminster Hall.] Thereupon the lords being moved to adjourn, adjourned to the House of Lords, and on debate [as appears by a note] it was agreed that the question should be proposed in Westminster Hall." Accordingly, when the lords returned the same day into the hall, the question was put by Lord Nottingham, and stated to the judges by the lord chancellour: "Whether, by the *law of England*, and constant practice in all prosecutions by *indictment and information*, for crimes and misdemeanours, by writing or speaking, the particular words supposed to be written or spoken must not be expressly specified in the indictment or information?" On this question the judges, *seriatim*, and in open court, delivered their opinion: the substance of which was, "that by the laws of England, and the constant practice in Wesminster Hall, the words ought to be expressly specified in the indictment or information." Then the lords adjourned, and did not come into the hall until the 20th. In the intermediate time they came to resolutions on the matter of the question put to the judges. Dr. Sacheverell, being found guilty, moved in arrest of judgment upon two points:—The first, which he grounded on the opinion of the judges, and which your committee thinks most to the present purpose, was, "that no entire clause, or sentence, or expression, in either of his sermons or dedications, is particularly set forth in his impeachment, which he has already heard the judges declare to be necessary in all cases of indictments or informations." On this head of objection, the lord chancellour, on the 23d of March, agreeably to the resolutions of the lords of the 14th and 16th of March, acquainted Dr. Sacheverell: "that on occasion of the question before put to the judges *in Westminster Hall*, and their answer thereto, their lordships had fully debated and considered of that matter, and had come to the following resolution: "That this House will proceed to the determination of the impeachment of Dr. Henry Sacheverell, according to the *law of the land, and the law and usage of parliament*." And afterwards to this resolution: "That by the *law and usage of parliament* in prosecutions for high crimes and misdemeanours, by writing or speaking, the particular words, supposed to be criminal, are *not necessary* to be expressly specified in such impeachment. So that, in their lordships' opinion, the law and usage of the high court of parliament being a *part of the law of the land*, and that usage not requiring that words should be exactly specified in impeachments, the answer of the judges, which related only to the course of *indictments and informations*, does not in the least affect your case."

On this solemn judgment concerning the law and usage of parliament, it is to be remarked; First, that the impeachment itself is not to be presumed inartificially drawn. It appears to have been the work of some of the greatest lawyers of the time, who were perfectly versed in the manner of pleading in the courts below; and would naturally have imitated their course, if they had not been justly fearful of setting an example, which might hereafter subject the

plainness and simplicity of a parliamentary proceeding to the technical subtleties of the inferiour courts. Secondly, that the question put to the judges, and their answer, were strictly confined to the law and practice below; and that nothing in either had a tendency to their delivering an opinion concerning parliament, its laws, its usages, its course of proceeding, or its powers. Thirdly, that the motion in arrest of judgment, grounded on the opinion of the judges, was made only by Dr. Sacheverell himself, and not by his counsel, men of great skill and learning, who, if they thought the objections had any weight, would undoubtedly have made and argued them.

Here, as in the case of the 11th King Richard the Second, the judges declared unanimously, that such an objection would be fatal to such a pleading in any indictment or information: but the lords, as on the former occasion, overruled this objection, and held the article to be good and valid, notwithstanding the report of the judges concerning the mode of proceeding in the courts below.

Your committee finds, that a protest, with reasons at large, was entered by several lords against this determination of their court. It is always an advantage to those who protest, that their reasons appear upon record, whilst the reasons of the majority who determine the question do not appear. This would be a disadvantage of such importance, as greatly to impair, if not totally to destroy, the effect of precedent as authority, if the reasons which prevailed were not justly presumed to be more valid than those which have been obliged to give way; the former having governed the final and conclusive decision of a competent court. But your committee, combining the fact of this decision with the early decision just quoted, and with the total absence of any precedent of an objection, before that time or since, allowed to pleading, or what has any relation to the rules and principles of pleading as used in Westminster Hall, has no doubt that the House of Lords was governed in the 9th of Anne by the very same principles which it had solemnly declared in the 11th of Richard the Second.

But besides the presumption in favour of the reasons which must be supposed to have produced this solemn judgment of the peers, contrary to the practice of the courts below, as declared by all the judges—it is probable, that the lords were unwilling to take a step, which might admit that any thing in that practice should be received as their rule. It must be observed, however, that the reasons against the article, alleged in the protest, were by no means solely bottomed in the practice of the courts below, as if the main reliance of the protesters was upon that usage. The protesting minority maintained, that it was not agreeable to *several precedents in parliament*; of which they cited many in favour of their opinion.—It appears by the journals, that the clerks were ordered to search for precedents, and a committee of peers was appointed to inspect the said precedents, and to report upon them,—and that they did inspect and report accordingly. But the report is not entered on the journals. It is, however, to be presumed that the greater number and the better precedents supported the judgment. Allowing, however, their utmost force to the precedents there cited, they could serve only to prove, that in the *case of words* (to which alone, and not the case of a *written* libel, the precedents extended) such a special averment, according to the tenour of the words, had been used; but not that it was necessary, or that ever any plea had been rejected upon such an objection. As to the course of parliament, resorted to for authority in this part of the protest, the argument seems rather to affirm than to deny the general proposition, that its own course, and not that of the inferiour courts, had been the rule and law of parliament.

As to the objection taken in the protest, drawn from natural right, the lords knew, and it appears in the course of the proceeding, that the whole of the libel had been read at length, as appears from p. 655 to p. 666. So that Dr. Sacheverell had *substantially* the same benefit of any thing which could be alleged in the extenuation or exculpation, as if his libellous sermons had been entered verbatim upon the recorded impeachment. It was adjudged sufficient to state the crime *generally* in the impeachment. The libels were given in *evidence;* and it was not then thought of, that nothing should be given in evidence which was not specially charged in the impeachment.

But whatever their reasons were (great and grave they were, no doubt) such, as your committee has stated it, is the *judgment* of the peers on the law of parliament, as a part of the law of the land. It is the more forcible, as concurring with the judgment in the 11th of Richard the Second, and with the total silence of the rolls and journals concerning any objection to pleading ever being suffered to vitiate an impeachment, or to prevent evidence being given upon it on account of its generality, or any other failure.

Your committee do not think it probable that

even before this adjudication, the rules of pleading below could ever have been adopted in a parliamentary proceeding, when it is considered that the several statutes of jeofails, not less than twelve in number, have been made for the correction of an over-strictness in pleading, to the prejudice of substantial justice: Yet in no one of those is to be discovered the least mention of any proceeding in parliament. There is no doubt, that the legislature would have applied its remedy to that grievance in parliamentary proceedings, if it had found those proceedings embarrassed with what lord Mansfield, from the bench, and speaking of the matter of these statutes, very justly calls "disgraceful subtleties."

What is still more strong to the point, your committee finds, that, in the 7th of William the Third, an act was made for the regulating of trials for treason and misprision of treason, containing several regulations for reformation of proceedings at law, both as to matters of form and substance, as well as relative to evidence. It is an act thought most essential to the liberty of the subject; yet in this high and critical matter, so deeply affecting the lives, properties, honours, and even the inheritable blood of the subject, the legislature was so tender of the high powers of this high court, deemed so necessary for the attainment of the great objects of its justice, so fearful of enervating any of its means, or circumscribing any of its capacities, even by rules and restraints the most necessary for the inferior courts, that they guarded against it by an express proviso, "That neither this act, nor any thing therein contained, shall any ways extend to *any impeachment, or other proceedings in parliament, in any kind whatsoever*."

CONDUCT OF THE COMMONS IN PLEADING.

The point being thus solemnly adjudged in the case of Dr. Sacheverell, and the principles of the judgment being in agreement with the whole course of parliamentary proceedings, the managers for this House have ever since considered it as an indispensable duty, to assert the same principle in all its latitude upon all occasions on which it could come in question—and to assert it with an energy, zeal, and earnestness, proportioned to the magnitude and importance of the interests of the Commons of Great Britain, in the religious observation of the rule, *that the law of parliament, and the law of parliament only, should prevail in the trial of their impeachments.*

In the year 1715 (1 Geo. I.) the Commons thought proper to impeach of high treason the lords, who had entered into the rebellion of that period. This was about six years after the decision in the case of Sacheverell. On the trial of one of these lords (the Lord Wintoun) after verdict, the prisoner moved in arrest of judgment, and excepted against the impeachment for errour, on account of the treason therein laid "not being described with sufficient certainty—the day on which the treason was committed not having been alleged." His counsel was heard to this point. They contended, 'that the forfeitures in cases of treason are very great; and therefore they humbly conceived, that the accusation ought to contain all the certainty it is capable of; that the prisoner may not, by *general allegations*, be rendered incapable to defend himself in a case which may prove fatal to him. That they would not trouble their lordships with citing authorities; for they believed there is not one gentleman of the long robe but will agree that an indictment for any capital offence to be erroneous, if the offence be not alleged to be committed on a certain day.' "That this impeachment set forth only that in or about the months of September, October, or November, 1715," 'the offence charged in the impeachment had been committed. The counsel argued that a proceeding by impeachment is a proceeding at the common law, for lex parliamentaria is a part of common law, and they submitted whether there is not the same certainty required in one method of proceeding at common law as in another.'

The matter was argued elaborately and learnedly, not only on the general principles of the proceedings below, but on the inconvenience and possible hardships attending this uncertainty. They quoted Sacheverell's case, in whose impeachment "the precise days were laid when the Doctor preached each of those two sermons; and that by a like reason a certain day ought to be laid in the impeachment when this treason was committed; and that the authority of Dr. Sacheverell's case seemed so much stronger than the case in question, as the crime of treason is higher than that of a misdemeanour."

Here the managers for the Commons brought the point a second time to an issue, and that on the highest of capital cases; an issue, the event of which was to determine for ever, whether their impeachments were to be regulated by the law, as understood and observed in the inferior courts. Upon the usage below there was no doubt; the indictment

would unquestionably have been quashed;—but the managers for the Commons stood forth upon this occasion with a determined resolution, and no less than four of them *seriatim* rejected the doctrine contended for by Lord Wintoun's counsel. They were all eminent members of parliament, and three of them great and eminent lawyers, namely, the then attorney-general, Sir William Thompson, and Mr. Cowper.

Mr. Walpole said, "Those learned gentlemen (Lord Wintoun's counsel) *seem to forget in what court they are*. They have taken up so much of your lordship's time in quoting of authorities, and using arguments to show your lordships what would quash an indictment in the *courts below*, that they seemed to forget they are now in a *court of parliament, and on an impeachment of the Commons of Great Britain*. For, should the Commons admit all that they have offered, it will not follow that the impeachment of the Commons is insufficient; and I must observe to your lordships, that neither of the learned gentlemen have offered to produce one instance relative to an impeachment; I mean to show that the sufficiency of an impeachment was never called in question for the generality of the charge, or that any instance of that nature was offered at before. The Commons do not conceive, that, if this exception would quash an indictment, it would therefore make the impeachment insufficient. I hope it never will be allowed here as a reason, that what quashes an indictment in the courts below, will make insufficient an impeachment brought by the Commons of Great Britain."

The attorney-general supported Mr. Walpole in affirmance of this principle. He said: "I would follow the steps of the learned gentleman who spoke before me, and I think he has given a good answer to these objections. I would take notice that we are upon an impeachment, not upon an indictment. The courts below have set forms to themselves, which have prevailed for a long course of time, and thereby are become the forms by which those courts are to govern themselves; but it never was thought that the forms of those courts had any influence on the proceedings of parliament. In Richard the Second's time, it is said in the records of parliament, that proceedings in parliament are not to be governed by the forms of Westminster Hall. We are in the case of an impeachment, and in the court of parliament. Your lordships have already given judgment against six upon this impeachment, and it is warranted by the precedents in parliament; therefore we insist that the articles are good in substance."

Mr. Cowper.—"They (the counsel) cannot but know that the usages of parliament are part of the laws of the land, although they differ in many instances from the common law, as practised in the inferiour courts, in point of form. My lords, if the Commons, in preparing articles of impeachment, should govern themselves by precedents of indictments, in my humble opinion they would depart from the antient, nay, the constant usage and practice of parliament. It is well known that the form of an impeachment has very little resemblance to that of an indictment: and, I believe, the Commons will endeavour to preserve the difference, by adhering to their own precedents."

Sir William Thompson.—"We must refer to the forms and proceedings in the court of parliament, and which must be owned to be part of the law of the land. It has been mentioned already to your lordships, that the precedents in impeachments are not so nice and precise in form as in the inferior courts; and we presume your lordships will be governed by the forms of your own court (especially forms that are not essential to justice) as the courts below are by theirs; which courts differ one from the other in many respects as to their forms of proceedings, and the practice of each court is esteemed as the law of that court."

The attorney-general in reply maintained his first doctrine—"There is no uncertainty in it *that can be to the prejudice of the prisoner*; we insist it is according to the *forms of parliament*—he has pleaded to it, and your lordships have found him guilty."

The opinions of the judges were taken in the House of Lords on the 19th of March 1715, upon two questions which had been argued in arrest of judgment, grounded chiefly on the practice of the courts below. To the first the judges answered: "*It is necessary* that there be a *certain* day laid in such indictments on which the fact is alleged to be committed; and that alleging in such indictments, that the fact was committed at or about a certain day, would not be sufficient." To the second they answered: "That although a day certain, when the fact is supposed to be done, be alleged in such indictments, yet it is not necessary upon the trial to prove the fact to be committed upon *that day*; but it is sufficient if proved to be done *on any other day before* the indictment found."

Then it was "agreed by the House, and ordered, that the lord high steward be directed to acquaint the prisoner at the bar in Westminster Hall, 'That the lords have considered of the matters moved in arrest of judgment, and are of opinion, that they are not sufficient to arrest the same, but that the *impeachment* is sufficiently certain in point of time *according to the form of impeachments in parliament*.'"

On this final adjudication (given after solemn argument, and after taking the opinion of the judges) in affirmance of the law of parliament against the undisputed usage of the courts below, your committee has to remark, 1st, The preference of the custom of parliament to the usage below. By the very latitude of the charge, the parliamentary accusation gives the prisoner fair notice to prepare himself upon all points; whereas there seems something insnaring in the proceedings upon indictment, which fixing the specification of a day certain for the treason or felony as absolutely necessary in the charge, gives notice for preparation only on *that day*; whilst the prosecutor has the whole range of time antecedent to the indictment to allege, and give evidence of facts against the prisoner. It has been usual, particularly in later indictments, to add, "at several other times." But the strictness of naming one day is still necessary, and the want of the larger words would not quash the indictment. 2dly. A comparison of the extreme rigour and exactness required in the more *formal* part of the proceedings by indictment with the extreme laxity used in the *substantial* part (that is to say, the evidence received to prove the fact) fully demonstrates that the partizans of those forms would put shackles on the high court of parliament, with which they are not willing, or find it wholly impracticable, to bind themselves. 3dly. That the latitude of departure from the letter of the indictment (which holds in other matters besides this) is in appearance much more contrary to natural justice than any thing which has been objected against the evidence offered by your managers, under a pretence that it exceeded the limits of pleading. For in the case of indictments below, it must be admitted, that the prisoner may be unprovided with proof of an alibi, and other material means of defence, or may find some matters unlooked-for produced against him, by witnesses utterly unknown to him: Whereas nothing was offered to be given in evidence under any of the articles of this impeachment, except such as the prisoner must have had perfect knowledge of, the whole consisting of matters sent over by himself to the court of directors, and authenticated under his own hand. No substantial injustice or hardship of any kind could arise from our evidence under our pleading—whereas in theirs, very great and serious inconveniences might well happen.

Your committee has further to observe, that in the case of Lord Wintoun, as in the case of Dr. Sacheverell, the Commons had, in their managers, persons abundantly practised in the law, as used in the inferiour jurisdictions, who could easily have followed the precedents of indictments—if they had not purposely, and for the best reasons, avoided such precedents.

A great writer on the criminal law, *Justice Foster*, in one of his discourses, fully recognizes those principles for which your managers have contended, and which have to this time been uniformly observed in parliament. In a very elaborate reasoning on the case of a trial in parliament, (the trial of those who had murdered Edward the Second) he observes thus; "It is *well known* that in *parliamentary* proceedings of this kind, *it is, and ever was*, sufficient that matters appear with proper light and certainty to a *common understanding*, without that minute exactness which is required in criminal proceedings in Westminster Hall. In these cases, the rule has always been, *loquendum et vulgus*." And in a note, he says, "In the proceeding against Mortimer, in this parliament, *so little regard was had to the forms used in legal proceedings*, that he who had been frequently summoned to parliament as a baron, and had lately been created Earl of March, is styled through the whole record, merely Roger de Mortimer."

The departure from the common forms in the first case alluded to by Foster, viz. the trial of Berkley, Mautravers, &c. for treason, in the murder of Edward the Second, might be more plausibly attacked, because they were tried, though in parliament, by a jury of freeholders; which circumstance might have given occasion to justify a nearer approach to the forms of indictments below. But no such forms were observed, nor in the opinion of this able judge ought they to have been observed.

PUBLICITY OF THE JUDGES' OPINIONS.

It appears to your committee, that from the 30th year of King Charles the Second, until the trial of Warren Hastings, Esquire, in all trials in parliament, as well upon impeach-

ments of the Commons as on indictments brought up by certiorari, when any matter of law hath been agitated at the bar, or in the course of trial hath been stated by any lord in the court, it hath been the prevalent custom to state the same in open court. Your committee has been able to find, since that period, no more than one precedent (and that a precedent rather in form than in substance) of the opinions of the judges being taken privately, except when the case on both sides has been closed, and the lords have retired to consider of their verdict, or of their judgment thereon. Upon the soundest and best precedents, the lords have improved on the principles of publicity and equality, and have called upon the parties severally to argue the matter of law, previously to a reference to the judges; who, on their parts, have afterwards, in *open court*, delivered their opinions, often by the mouth of one of the judges, speaking for himself and the rest, and in their presence: And sometimes all the judges have delivered their opinion *seriatim*, (even when they have been unanimous in it) together with their reasons upon which their opinion had been founded. This, from the most early times, has been the course in all judgments in the House of Peers. Formerly even the record contained the reasons of the decision. "The reason wherefore (said Lord Coke) the records of parliaments have been so highly extolled is, that therein is set down, in cases of difficulty, not only the judgment and resolution, but *the reasons and causes of the same* by so great advice."

In the 30th of Charles the Second, during the trial of Lord Cornwallis, on the suggestion of a question in law to the judges, Lord Danby demanded of the lord high steward, the Earl of Nottingham, "Whether it would be proper here (in open court) to ask the question of your grace, or to propose it to the judges?" The lord high steward answered, "If your lordships doubt of any thing whereon a question in law ariseth, the latter opinion, and the *better* for the prisoner is—*that it must be stated in the presence of the prisoner, that he may know whether the question be truly put.* It hath *sometimes* been practised otherwise; and the peers have sent for the judges, and have asked their opinion in private, and have come back and have given their verdict according to that opinion, and there is scarcely a precedent of its being otherwise done. There is a later authority in print that doth settle the point so as I tell you—and I do conceive *it ought to followed*; and it being safer for the prisoner, my humble opinion to your lordship is—that he ought to be present at *the stating of the question*. Call the *prisoner*." The prisoner, who had withdrawn, again appearing, he said,

"My Lord Cornwallis, and my lords the peers, since *they* have withdrawn, have conceived a doubt in some matter *of fact* in your case; and they have that tender regard of a prisoner at the bar, *that they will not suffer a case to be put up in his absence*, lest it should chance to prejudice him by being *wrong stated*." Accordingly the question was both put, and the judges' answer given, publicly and in his presence.

Very soon after the trial of Lord Cornwallis, the impeachment against Lord Stafford was brought to a hearing, that is, in the 32d of Charles the Second. In that case the lord at the bar having stated a point of law, "touching the necessity of two witnesses to an overt act in case of treason;" the lord high steward told Lord Stafford, that "all the judges that assist them, *and are here in your lordship's presence and hearing*, should deliver their opinions, whether it be doubtful and disputable, or not." Accordingly the judges delivered their opinion, and each argued it (though they were all agreed) *seriatim* and *in open court*. Another abstract point of law was also proposed from the bar on the same trial, concerning the legal sentence in high treason; and in the same manner the judges on reference delivered their opinion in *open court*; and no objection was taken to it, as any thing new or irregular.

In the 1st of James the Second, came on a remarkable trial of a peer; the trial of Lord Delamore. On that occasion a question of law was stated. There also, in conformity to the precedents and principles given on the trial of Lord Cornwallis, and the precedent in the impeachment of Lord Stafford, the then lord high steward took care that the opinion of the judges should be given in open court.

Precedents grounded on principles so favourable to the fairness and equity of judicial proceedings given in the reigns of Charles the Second and James the Second, were not likely to be abandoned after the revolution. The first trial of a peer, which we find after the revolution, was that of the Earl of Warwick.

In the case of the Earl of Warwick, 11 Will. III. a question in law upon evidence was put to the judges; the statement of the question was made in open court by the lord high steward, Lord Somers: "If there be six in company, and one of them is killed, the other

five are afterwards indicted, and three are tried and found guilty of manslaughter, and upon their prayers have their clergy allowed, and the burning in the hand is respited, but not pardoned, whether any of the three can be a witness on the trial of the other two." Lord Halifax—"I suppose your lordships will have the opinion of the judges upon this point; and *that must be in the presence of the prisoner.*' Lord high steward, (*Lord Somers,*) "*It must certainly be in the presence of the prisoner*, if you ask the judges' opinions."

In the same year, Lord Mohun was brought to trial upon an indictment for murder. In this single trial a greater number of questions was put the judges in matter of law, than probably was ever referred to the judges in all the collective body of trials, before or since that period. That trial, therefore, furnishes the largest body of authentic precedents in this point, to be found in the records of parliament. The number of questions put to the judges in this trial was twenty-three. They all originated from the peers themselves; yet the court called upon the party's counsel, as often as questions were proposed to be referred to the judges, as well as on the counsel for the crown, to argue every one of them *before* they went to those learned persons. Many of the questions accordingly were argued at the bar at great length. The opinions were given and argued *in open court*. Peers frequently insisted that the judges should give their opinions *seriatim*, which they did always publicly in the court, with great gravity and dignity, and greatly to the illustration of the law, as they held and acted upon it in their own court.

In Sacheverell's case (just cited for another purpose) the Earl of Nottingham demanded whether he might not propose a question of law to the judges *in open court*. It was agreed to; and the judges gave their answer *in open court*, though this was after verdict given: And in consequence of the advantage afforded to the prisoner in hearing *the opinion* of the judges, he was thereupon enabled to move in arrest of judgment.

The next precedent which your committee finds of a question put by the lords, sitting as a court of judicature, to the judges pending the trial, was in the 20th of George the Second; when Lord Balmerino, who was tried on an indictment for high treason, having raised a doubt, whether the evidence proved him to be at the place assigned for the overt act of treason on the day laid in the indictment. The point was argued at the bar by the counsel for the crown in the prisoner's presence, and for his satisfaction. The prisoner, on hearing the argument, waived his objection, but the then lord president moving their lordships to adjourn to the chamber of parliament, the lords adjourned accordingly; and after some time, returning into Westminster Hall—the lord high steward (*Lord Hardwicke*) said, "Your lordships were pleased, in the chamber of parliament, to come to a resolution, that the opinion of the learned and reverend judges should be taken on the following question, namely, Whether it is necessary that an overt act of high treason should be proved to have been committed on the particular day laid in the indictment? Is it your lordships' pleasure, that the judges do now give their opinion on that question?

"Lords.—Aye, aye.

"Lord high steward.—My lord chief justice?

"Lord chief justice,

"The question proposed by your lordships is, Whether it be necessary that an overt act of high treason should be proved to be committed on the particular day laid in the indictment? We are all of opinion, that it is not necessary to prove the overt act to be committed on the particular day laid in the indictment—but as evidence may be given of an overt act before the day, so it may be after the day specified in the indictment—for the day laid is circumstance and form only, and not material in point of proof; this is the known constant course of proceeding in trials."

Here the case was made for the judges, for the satisfaction of one of the peers, after the prisoner had waived his objection. Yet it was thought proper, as a matter of course and of right, that the judges should state the question put to them in the open court, and in presence of the prisoner—and that in the same open manner, and in the same presence, their answer should be delivered.

Your committee concludes their precedents, begun under *Lord Nottingham* and ended under *Lord Hardwicke*. They are of opinion, that a body of precedents so uniform, so accordant with principle, made in such times, and under the authority of a succession of such great men, ought not to have been departed from. The single precedent to the contrary, to which your commtitee has alluded above, was on the trial of the Dutchess of Kingston, in the reign of his present majesty. But in that instance, the reasons of the judges were, by order of the House, delivered in writing, and entered at length on the journals; so that the legal principle of the decision is equally to be

found, which is not the case in any one instance of the present impeachment.

The Earl of Nottingham, in Lord Cornwallis's case, conceived, though it was proper and agreeable to justice, that this mode of putting questions to the judges, and receiving their answer in public, was not supported by former precedents: But, he thought, a book of authority had declared in favour of this course. Your committee is very sensible, that antecedent to the great period to which they refer, there are instances of questions having been put to the judges privately. But we find the *principle* of publicity (whatever variations from it there might be in practice) to have been so clearly established at a more early period, that all the judges of England resolved, in Lord Morley's trial, in the year 1666, (about twelve years before the observation of Lord Nottingham,) *on a supposition, that the trial should be actually concluded, and the lords retired to the chamber of parliament to consult on their verdict*, that even in that case (much stronger than the observation of your committee requires for its support) if their opinions should then be demanded by the peers, for the information of their private conscience, yet they determined that they should be given in public. This resolution is in itself so solemn, and is so bottomed on constitutional principle, and legal policy, that your committee have thought fit to insert it verbatim, in their report, as they relied upon it at the bar of the court, when they contended for the same publicity.

"It was resolved, That in case the peers who are triers, *after the evidence given, and the prisoner withdrawn, and they gone to consult of the verdict*, should desire to speak with any of the judges, to have their opinion upon any point of law, that if the lord steward spoke to us to go, we should go to them. But when the lords asked us any question, we should not deliver any private opinion; but let them know, *we were not to deliver any private opinion without conference with the rest of the judges, and that to be done openly in court; and this (notwithstanding the precedent in the case of the Earl of Castlehaven) was thought prudent, in regard of ourselves, as well as for the avoiding suspicion which might grow by private opinions—ALL resolutions of judges being ALWAYS done in public.*"

The judges in this resolution overruled the authority of the precedent, which militated against the whole spirit of their place and profession. Their declaration was without reserve or exception, that "*all* resolutions of the judges are *always* done in public." These judges (as should be remembered, to their lasting honour) did not think it derogatory from their dignity, nor from their duty to the House of Lords, to take such measures concerning the publicity of their resolutions, as should secure them from suspicion. They knew that the mere circumstance of privacy in a judicature, where any publicity is in use, tends to beget suspicion and jealousy. Your committee is of opinion, that the honourable policy of avoiding suspicion, by avoiding privacy, is not lessened by any thing which exists in the present time, and in the present trial.

Your committee has here to remark, that this learned judge seemed to think the case of Lord Audley [Castlehaven] to be more against him, than in truth it was. The precedents were as follow: The opinions of the judges were taken three times. The first time by the attorney-general at Serjeant's Inn, antecedent to the trial—the last time, after the peers had retired to consult on their verdict,—the middle time, *was during the trial itself;* and here the opinion was taken in open court, agreeably to what your committee contends to have been the usage ever since this resolution of the judges. What was done before seemed to have passed sub silentio, and possibly through mere inadvertence.

Your committee observes, that the precedents by them relied on, were furnished from times in which the judicial proceedings in parliament, and in all our courts, had obtained a very regular form. They were furnished at a period in which Justice Blackstone remarks that more laws were passed, of importance to the rights and liberties of the subject, than in any other. These precedents lean all one way, and carry no marks of accommodation to the variable spirit of the times, and of political occasions. They are the same before and after the revolution. They are the same through five reigns. The great men who presided in the tribunals which furnished these examples, were in opposite political interests, but all distinguished for their ability, integrity, and learning.

The Earl of Nottingham, who was the first on the bench to promulgate this publicity as a rule, has not left us to seek the principle in the case: That very learned man considers the publicity of the questions and answers as a matter of justice, *and of justice favourable to the prisoner*. In the case of Mr. Hastings, the prisoner's counsel did not join your committee in their endeavours to obtain the publicity we

demanded. Their reasons we can only conjecture. But your managers, acting for this House, were not the less bound to see that the due parliamentary course should be pursued, even when it is most favourable to those whom they impeach. If it should answer the purposes of one prisoner to waive the rights which belong to all prisoners, it was the duty of your managers to protect those general rights against that particular prisoner. It was still more their duty to endeavour, that their *own* questions should not be erroneously stated, or cases put which varied from those which they argued, or opinions given in a manner not supported by the spirit of our laws and institutions, or by analogy with the practice of all our courts.

Your committee, much in the dark about a matter, in which it was so necessary that they should receive every light, have heard, that in debating this matter abroad, it has been objected, that many of the precedents on which we most relied were furnished in the courts of the lord high steward, and not in trials where the peers were judges; and that the lord high steward not having it in his power to retire with the juror peers, the judges' opinions, from necessity, not from equity to the parties, were given before that magistrate.

Your committee thinks it scarcely possible, that the lords could be influenced by such a feeble argument. For, admitting the fact to have been as supposed, there is no sort of reason why so uniform a course of precedents, in a legal court, composed of a peer for judge, and peers for triers—a course so favourable to all parties and to equal justice—a course in concurrence with the procedure of all our other courts, should not have the greatest authority over their practice in every trial before the *whole body* of the peerage.

The Earl of Nottingham, who acted as high steward in one of these commissions, certainly knew what he was saying. He gave no such reason. His argument for the publicity of the judges' opinions, did not turn at all on the nature of his court, or of his office in that court. It rested on the equity of the principle, and on the fair dealing due to the prisoner.

Lord Somers was in no such court; yet his declaration is full as strong. He does not indeed argue the point, as the Earl of Nottingham did when he considered it as a new case. Lord Somers considers it as a point quite settled—and no longer standing in need of being supported by reason or precedent.

But it is a mistake that the precedents stated in this report are wholly drawn from proceedings in that kind of court. Only two are cited, which are furnished from a court constituted in the manner supposed. The rest were in trials by all the peers, and not by a jury of peers with an high steward.

After long discussions with the peers on this subject, "The lords committees in a conference told them [the committee of this House, appointed to a conference on the matter] that the high steward is but speaker pro tempore, and giveth his vote as well as the other lords: This changeth not the nature of the court. And the lords declared, that they have power enough to proceed to trial, though the king should not name an high steward." On the same day, "It is declared and ordered, by the lords spiritual and temporal in parliament assembled, that the office of high steward on trials of peers upon impeachments is not necessary to the House of Peers—but that lords may proceed in such trials, if an high steward is not appointed, according to their humble desire."

To put the matter out of all doubt, and to remove all jealousy on the part of the Commons, the commission of the lord high steward was then altered. These rights, contended for by the Commons in their impeachments, and admitted by the peers, were asserted in the proceedings preparatory to the trial of Lord Stafford, in which that long chain of uniform precedents, with regard to the publicity of the judges' opinions in trials, begins.

For these last citations, and some of the remarks, your committee are indebted to the learned and upright Justice Foster. They have compared them with the journals, and find them correct. The same excellent author proceeds to demonstrate that whatever he says of trials by impeachment is equally applicable to trials before the high steward on indictment; and consequently that there is no ground for a distinction, with regard to the public declaration of the judges' opinions, founded on the inapplicability of either of these cases to the other. The argument on this whole matter is so satisfactory, that your committee has annexed it at large to the report.* As there is no difference in fact between these trials (especially since the act which provides that all the peers shall be summoned to the trial of a peer) so there is no difference in the reason and principle of the publicity, let the matter of the steward's jurisdiction be as it may.

* See the Appendix, No. I.

PUBLICITY GENERAL.

Your committee do not find any positive law which binds the judges of the courts in Westminster Hall publicly to give a reasoned opinion from the bench, in support of their judgment upon matters that are stated before them. But the course hath prevailed from the oldest times. It hath been so general and so uniform, that it must be considered as the law of the land. It has prevailed, so far as we can discover, not only in all the courts which now exist, whether of law or equity, but in those which have been suppressed or disused, such as the court of wards and the star chamber. An author, quoted by Rushworth, speaking of the constitution of that chamber, says, "And so it was resolved, *by the judges, on reference made to them; and their opinion, after deliberate hearing, and view of former precedents, was published in open court.*" It appears elsewhere in the same compiler, that all their proceedings were public, even in deliberating previous to judgment.

The judges in their reasonings have always been used to observe on the arguments employed by the counsel on either side; and on the authorities cited by them, assigning the grounds for rejecting the authorities which they reject, or for adopting those to which they adhere, or for a different construction of law, according to the occasion. This publicity, not only of decision but of deliberation, is not confined to their several courts, whether of law or equity, whether above, or at nisi prius, but it prevails where they are assembled in the exchequer chamber, or at Serjeant's Inn, or wherever matters come before the judges collectively for consultation and revision. It seems to your committee to be moulded in the essential frame and constitution of British judicature. Your committee conceives, that the English jurisprudence has not any other sure foundation, nor consequently the lives and properties of the subject any sure hold, but in the maxims, rules, and principles, and juridical traditionary line of decisions contained in the notes taken, and from time to time published, (mostly under the sanction of the judges,) called reports.

In the early periods of the law it appears to your committee, that a course still better had been pursued, but grounded on the same principles; and that no other cause than the multiplicity of business prevented its continuance. "Of antient time (says Lord Coke) in cases of difficulties, either criminal or civil, *the reasons and causes* of the judgment were set down *upon the record*, and so continued in the reign of Ed. I. and Ed. II. and then there was no need of reports; but in the reign of Ed. III. (when the law was in its height,) the causes and reasons of judgments, in respect of the multitude of them, are not set down in the record, but then the *great casuists and reporters of cases* (certain grave and sad men) published the cases, *and the reasons and causes of the judgments or resolutions*, which, from the beginning of the reign of Ed. III. and since, we have in print. But these also, though of great credit and excellent use in their kind, *yet far underneath the authority of the parliament rolls, reporting the acts, judgments, and resolutions of that highest court.*"

Reports, though of a kind less authentic than the *year books* to which Coke alludes, have continued without interruption to the time in which we live. It is well known, that the elementary treatises of law, and the dogmatical treatises of English jurisprudence, whether they appear under the names of institutes, digests, or commentaries, do not rest on the authority of the supreme power, like the books called the institute, digest, code, and authentic collations in the Roman law. With us, doctrinal books of that description have little or no authority, other than as they are supported by the adjudged cases and reasons given at one time or other from the bench; and to these they constantly refer. This appears in Coke's Institutes, in Comyns's Digest, and in all books of that nature. To give judgment privately is to put an end to reports; and to put an end to reports, is to put an end to the law of England. It was fortunate for the constitution of this kingdom, that in the judicial proceedings in the case of ship money, the judges did not then venture to depart from the antient course. They gave and they argued their judgment in open court.* Their reasons were publicly given, and the reasons assigned for their judgment took away all its authority. The great historian Lord Clarendon, at that period a young lawyer, has told us, that the judges gave as law from the bench what every man in the hall knew not to be law.

This publicity, and this mode of attending the decision with its grounds, is observed not only in the tribunals where the judges preside in a judicial capacity individually or collectively, but where they are consulted by the peers, on the law in all *writs of error* brought from below. In the opinion they give of the mat-

* This is confined to the judicial opinions in Hampden's case. It does not take in all the extra-judicial opinions.

ter assigned as errour, one at least of the judges argues the questions at large. He argues them publicly, though in the chamber of parliament; and in such a manner that every professour, practitioner, or student of the law, as well as the parties to the suit, may learn the opinions of all the judges of all the courts upon those points, in which the judges in one court might be mistaken.

Your committee is of opinion, that nothing better could be devised by human wisdom than argued judgments publicly delivered, for preserving unbroken the great traditionary body of the law, and for marking, whilst that great body remained unaltered, every variation in the application and the construction of particular parts; for pointing out the ground of each variation; and for enabling the learned of the bar and all intelligent laymen to distinguish those changes made for the advancement of a more solid, equitable, and substantial justice, according to the variable nature of human affairs, a progressive experience, and the improvement of moral philosophy, from those hazardous changes in any of the antient opinions and decisions, which may arise from ignorance, from levity, from false refinement, from a spirit of innovation, or from other motives, of a nature not more justifiable.

Your committee, finding this course of proceeding to be concordant with the character and spirit of our judicial proceeding, continued from time immemorial, supported by arguments of sound theory, and confirmed by effects highly beneficial, could not see without uneasiness, in this great trial for Indian offences, a marked innovation. Against their reiterated requests, remonstrances, and protestations, the opinions of the judges were always taken secretly. Not only the constitutional publicity for which we contend was refused to the request and entreaty of your committee; but when a noble peer, on the 24th of June 1789, did in open court declare, that he would then propose some questions to the judges in that place, and hoped to receive their answer openly, according to the approved good customs of that and of other courts—the lords instantly put a stop to the further proceeding by an immediate adjournment to the chamber of parliament. Upon this adjournment we find, by the lords' journals, that the House, on being resumed, ordered, that "it should resolve itself into a committee of the whole House, on Monday next, to take into consideration what is the proper manner of putting questions by the lords to the judges, and of their answering the same in judicial proceedings." The House did thereon resolve itself into a committee, from which the Earl of Galloway, on the 29th of the same month, reported as follows: "That the House has, in the trial of Warren Hastings, Esquire, proceeded in a regular course in the manner of propounding their questions to the judges in the chamber of parliament, and in receiving their answers to them in the same place." The resolution was agreed to by the lords; but the protest (as below)* was entered thereupon, and supported by strong arguments.

Your committee remark, that this resolution states only, that the House had proceeded in this secret manner of propounding questions to the judges, and of receiving their answers during the trial, and on matters of debate between the parties, "in a regular course." It does not assert that another course would not have been *as* regular. It does not state either

* *Dissentient.*

1st. Because, by consulting the judges out of court in the absence of the parties, and with shut doors, we have deviated from the most approved, and almost uninterrupted, practice of above a century and a half, and established a precedent not only destructive of the justice due to the parties at our bar, but materially injurious to the rights of the community at large, who in cases of impeachments are more peculiarly interested that all proceedings of this high court of parliament should be open and exposed, like all other courts of justice, to public observation and comment, in order that no covert and private practices should defeat the great ends of public justice.

2dly. Because, from private opinions of the judges, upon private statements, which the parties have neither heard nor seen, grounds of a decision will be obtained, which must inevitably affect the cause at issue at our bar; this mode of proceeding seems to be a violation of the first principle of justice, inasmuch as we thereby force and confine the opinions of the judges to our private statement; and through the medium of our subsequent decision we transfer the effect of those opinions to the parties, who have been deprived of the right and advantage of being heard by such private, though unintended, transmutations of the point at issue.

3dly. Because the prisoners who may hereafter have the misfortune to stand at our bar will be deprived of that consolation which the lord high steward Nottingham conveyed to the prisoner, Lord Cornwallis, viz. "That the lords have that tender regard of a prisoner at the bar, that they will not suffer a case to be put in his absence, lest it should prejudice him by being wrong stated."

4thly. Because unusual mystery and secrecy in our judicial proceedings must tend either to discredit the acquittal of the prisoner, or render the justice of his condemnation doubtful.

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judicial convenience, principle, or body of precedents for that *regular course*. No such body of precedents appear on the journal that we could discover. Seven-and-twenty, at least, in a regular series, are directly contrary to this regular course. Since the era of the 29th of June 1789, no one question has been admitted to go publicly to the judges.

This determined and systematic privacy was the more alarming to your committee, because the questions did not (except in that case) originate from the lords for the direction of their own conscience. These questions, in some material instances, were not made or allowed by the parties at the bar, nor settled in open court, but differed materially from what your managers contended was the true state of the question, as put and argued by them. They were such as the lords thought proper to state for them. Strong remonstrances produced some alteration in this particular; but even after these remonstrances, several questions were made, on statements which the managers never made nor admitted.

Your committee does not know of any precedent before this, in which the peers, on a proposal of the Commons, or of a less weighty person before their court, to have the cases publicly referred to the judges, and their arguments and resolutions delivered in their presence, absolutely refused. The very few precedents of such private reference on trials, have been made, as we have observed already, sub silentio, and without any observation from the parties. In the precedents we produce, the determination is accompanied with its reasons, and the publicity is considered as the clear undoubted right of the parties.

Your committee, using their best diligence, have never been able to form a clear opinion upon the ground and principle of these decisions. The mere result upon each case decided by the lords, furnished them with no light from any principle, precedent, or foregone authority of law or reason, to guide them with regard to the next matter of evidence which they had to offer, or to discriminate what matter ought to be urged, or to be set aside; your committee not being able to divine, whether the particular evidence, which, upon a conjectural principle, they might choose to abandon, would not appear to this House, and to the judging world at large, to be admissible, and possibly decisive proof. In these straits they had and have no choice, but either wholly to abandon the prosecution, and of consequence to betray the trust reposed in them by this House, or to bring forward such matter of evidence as they are furnished with from sure sources of authenticity, and which in their judgment, aided by the best advice they could obtain, is possessed of a moral aptitude juridically to prove or to illustrate the case which the House had given them in charge.

MODE OF PUTTING THE QUESTIONS.

When your committee came to examine into those private opinions of the judges, they found, to their no small concern, that the mode both of putting the questions to the judges, and their answers, was still more unusual and unprecedented than the privacy with which those questions were given and resolved.

This mode strikes, as we apprehend, at the vital privileges of the House. For with the single exception of the first question put to the judges in 1788, the case being stated, the questions are raised directly, specifically, and by name, on those privileges; that is *what evidence is it competent for the managers of the House of Commons to produce?* We conceive, that it was not proper, *nor justified by a single precedent*, to refer to the judges of the inferior courts any question, and still less for them to decide in their answer, of what is or is not competent for the House of Commons, or for any committee acting under their authority, to do, or not to do, in any instance or respect whatsoever. This new and unheard-of course can have no other effect than to subject to the discretion of the judges the law of parliament and the privileges of the House of Commons, and in a great measure the judicial privileges of the peers themselves; any intermeddling in which on their part, we conceive to be a dangerous and unwarrantable assumption of power. It is contrary to what has been declared by Lord Coke himself, in a passage before quoted, to be the duty of the judges: and to what the judges of former times have confessed to be their duty, on occasions to which he refers in the time of Henry the Sixth. And we are of opinion, that the conduct of those sages of the law, and others their successors, who have been thus diffident and cautious in giving their opinions upon matters concerning parliament, and particularly on the privileges of the House of Commons, was laudable in the example, and ought to be followed; particularly the principles upon which the judges declined to give their opinions in the year 1614. It appears by the journals of the lords, that a question concerning the law relative to impositions having been put to the judges, the proceeding

was as follows: "Whether the lords, the judges, shall be heard deliver their opinion touching the point of impositions, before further consideration be had of answer to be returned to the lower House, concerning the message from them lately received." Whereupon the number of the lords, requiring to hear the judges' opinions by saying "*content*," exceeding the others which said "*non content*," the lords, the judges, so desiring were permitted to withdraw themselves into the lord chancellour's private rooms; where having remained a while, and advised together, they returned into the House, and having taken their places, and standing discovered, did by the mouth of the lord chief justice of the king's bench, humbly desire to be forborne at this time, in this place, to deliver any opinion in this case, for many weighty and important reasons, which his lordship delivered with great gravity and eloquence; concluding, that himself and his brethren are upon particulars in judicial course to speak and judge between the king's majesty and his people, and likewise between his highness's subjects, and in no case to be disputants on any side."

Your committee do not find any thing which, through inadvertence or design, had a tendency to subject the law and course of parliament to the opinions of the judges of the inferiour courts, from that period until the first of James the Second. The trial of Lord Delamere for high treason was had by special commission before the lord high steward: It was before the act which directs that *all* peers should be summoned to such trials. This was not a trial in full parliament, in which case it was then contended for, that the lord high steward was the judge of the law, presiding in the court, but had no vote in the verdict; and that the lords were triers only, and had no vote in the judgment of the law. This was looked on as the course, where the trial was not in full parliament, in which latter case, there was no doubt but that the lord high steward made a part of the body of the triers, and that the whole House was the judge.* In this cause, after the evidence for the crown had been closed, the prisoner prayed the court to adjourn. The lord high steward doubted his power to take that step in that stage of the trial; and the question was, "Whether, the trial not being in full parliament, when the prisoner is upon his trial, and evidence for the king is given, the lords being (as it may be termed) charged with the prisoner, the peers may separate for a time, which is the consequence of an adjournment." The lord high steward doubted of his power to adjourn the court. The case was evidently new, and his grace proposed to have the opinion of the judges upon it. The judges, in consequence, offering to withdraw into the exchequer chamber, lord Falconberg "insisted that the question concerned the privilege of the peerage only, and conceived that the *judges are not concerned to make any determination in that matter; and being such a point of privilege, certainly the inferiour courts have no right to determine it.*" It was insisted, therefore, that the lords triers should retire with the judges. The lord high steward thought differently, and opposed this motion; but finding the other opinion generally prevalent, he gave way, and the lords triers retired, taking the judges to their consult. When the judges returned, they delivered their opinion in *open court*. Lord chief justice *Herbert* spoke for himself and the rest of the judges. After observing on the novelty of the case, with a temperate and becoming reserve with regard to the rights of parliaments, he marked out the limits of the office of the inferiour judges on such occasions, and declared, "*All that we, the judges, can do, is to acquaint your grace and the noble lords what the law is in the inferiour courts in cases of the like nature*, and the reason of the law in those points, and *then leave the jurisdiction of the court to its proper judgment.*" The chief justice concluded his statement of the usage below, and his observations on the difference of the cases of a peer tried in full parliament, and by a special commission, in this manner: "Upon the whole matter, my lords, whether the peers, being judges in the one and not in the other instance, alters the case, or whether the reason of the law in inferiour courts, why the jury are not permitted to separate until they have discharged themselves of their verdict, may have any influence on this case, *where that reason seems to fail*, the prisoner being to be tried by men of unquestionable honour, *we cannot presume so far as to make any determination, in a case which is both new to us, and of great consequence in itself*; but think it the proper way for us, having laid matters as we conceive them before your grace and my lords, *to submit the jurisdiction of your own court to your own determination.*"

It appears to your committee, that the lords, who stood against submitting the course of their high court to the inferiour judges, and that the judges, who, with a legal and constitutional discretion, declined giving any opinion in this matter, acted as became them; and your committee sees no reason

* See the lord high steward's speech on that head, 1st J. H.

why the peers, at this day, should be less attentive to the rights of their court, with regard to an exclusive judgment on their own proceedings, or to the rights of the Commons acting as accusers for the whole Commons of Great Britain in that court, or why the judges should be less reserved in deciding upon any of these points of high parliamentary privilege, than the judges of that and the preceding periods. This present case is a proceeding in full parliament, and not like the case under the commission in the time of James the Second, and still more evidently out of the province of the judges in the inferiour courts.

All the precedents previous to the trial of Warren Hastings, Esquire, seem to your committee to be uniform. The judges had constantly refused to give an opinion on any of the powers, privileges, or competencies of either House. But in the present instance your committee has found, with great concern, a further matter of innovation. Hitherto the constant practice has been to put questions to the judges but in the three following ways; as, 1st, A question of pure abstract law, without reference to any case, or merely upon an A. B. case stated to them. 2dly, To the legal construction of some act of parliament. 3dly, To report the course of proceeding in the courts below, upon an abstract case. Besides these three, your committee knows not of a single example of any sort, during the course of any judicial proceeding at the bar of the House of Lords, whether the prosecution has been by indictment, by information from the attorney-general, or by impeachment of the House of Commons.

In the present trial, the judges appear to your committee not to have given their judgment on points of law, stated as such, but to have in effect tried the cause, in the whole course of it, with one instance to the contrary.

The lords have stated no question of general law; no question on the construction of an act of parliament; no question concerning the practice of the courts below. They put *the whole gross case, and matter in question, with all its circumstances, to the judges.* They have, *for the first time*, demanded of them what particular person, paper, or document ought, or ought not, to be produced before them by the managers for the Commons of Great Britain: for instance, whether, under such an article, the Bengal consultations of such a day, the examination of rajah Nundcomar, and the like. The operation of this method is in substance, not only to make the judges masters of the whole process and conduct of the trial, but through that medium to transfer to them the ultimate judgment on the cause itself and its merits.

The judges attendant on the court of peers, hitherto have not been supposed to know the particulars and minute circumstances of the cause, and must therefore be incompetent to determine upon those circumstances. The evidence taken is not, of course, that we can find, delivered to them—nor do we find, that in fact any order has been made for that purpose, even supposing that the evidence could at all regularly be put before them. They are present in court, not to hear the trial, but solely to advise in matter of law—they cannot take upon themselves to say any thing about the Bengal consultations, or to know any thing of rajah Nundcomar, of Kelleram, or of Mr. Francis, or Sir John Clavering.

That the House may be the more fully enabled to judge of the nature and tendency of thus putting the question *specifically, and on the gross case*, your committee thinks fit here to insert one of those questions, reserving a discussion of its particular merits to another place. It was stated on the 22d of April 1790, "On that day the managers proposed to show that Kelleram fell into great balances with the East-India Company, in consequence of his appointment." It is so stated in the printed minutes, (p. 1206.) But the real tendency and gist of the proposition is not shown. —However the question was put, "whether it be or be not competent *to the managers for the Commons to give evidence upon the charge in the 6th article, to prove* that the rent which the defendant, Warren Hastings, Esquire, let the lands mentioned in the said 6th article of charge to Kelleram, fell into arrear and was deficient; and whether if proof were offered that the rent fell into arrear immediately after the letting, the evidence in that case would be competent?" The judges answered on the 27th of the said month, as follows: "*It is not competent for the managers for the House of Commons* to give evidence upon the charge in the 6th article, to prove that the rent at which the defendant, Warren Hastings, let the lands in the said 6th article of charge to Kelleram, fell into arrear and was deficient."

The House will observe, that on the question two cases of competence were put—The first on the competence of managers for the House of Commons to give the evidence supposed to be offered by them, but which we deny to have been offered in the manner and for the purpose assumed in this question

The second is in a shape apparently more abstracted, and more nearly approaching to parliamentary regularity—on the competence of the evidence itself, in the case of a supposed circumstance being superadded. The judges answered only the first, denying flatly the competence of the managers. As to the second, the competence of the supposed evidence, they are profoundly silent. Having given this blow to our competence, about the other question (which was more within their province) namely, the competence of evidence on a case hypothetically stated, they gave themselves no trouble. The lords on that occasion rejected the whole evidence. On the face of the judges' opinion, it is a determination *on a case*, the trial of which was not with them, but it contains *no rule or principle of law*, to which alone it was their duty to speak.*

These essential innovations tend, as your committee conceives, to make an entire alteration in the constitution, and in the purposes of the high court of parliament, and even to reverse the antient relations between the lords and the judges. They tend wholly to take away from the Commons the benefit of making good their case before the proper judges, and submit this high inquest to the inferiour courts.

Your committee sees no reason why, on the same principles and precedents, the lords may not terminate their proceedings in this, and in all future trials, by sending the whole body of evidence taken before them in the shape of a special verdict, to the judges, and may not demand of them, whether they ought, on the whole matter, to acquit or condemn the prisoner; nor can we discover any cause that should hinder them [the judges] from deciding on the accumulative body of the evidence, as hitherto they have done in its parts, and from dictating the existence or non-existence of a misdemeanour or other crime in the prisoner, as they think fit—without any more reference to principle, or precedent of law, than hitherto they have thought proper to apply in determining on the several parcels of this cause.

Your committee apprehends, that very serious inconveniences and mischiefs may hereafter arise from a practice in the House of Lords, of considering itself as unable to act without the judges of the inferiour courts, of implicitly following their dictates, of adhering with a literal precision to the very words of their responses, and of putting them to decide on the competence of the managers for the Commons—the competence of the evidence to be produced—who are to be permitted to appear—what questions are to be asked of witnesses—and indeed, parcel by parcel, on the whole of the gross case before them; as well as to determine upon the order, method, and process of every part of their proceedings. The judges of the inferiour courts are by law rendered independent of the crown. But this, instead of a benefit to the subject, would be a grievance, if no way was left of producing a responsibility. If the lords cannot or will not act without the judges, and if (which God forbid!) the Commons should find it at any time hereafter necessary to impeach them before the lords; this House would find the lords disabled in their functions, fearful of giving any judgment on matter of law, or admitting any proof of fact without them, [the judges;] and having once assumed the rule of proceeding and practice below as their rule, they must at every instant resort, for their means of judging, to the authority of those whom they are appointed to judge.

Your committee must always act with regard to men as they are. There are no privileges or exemptions from the infirmities of our common nature. We are sensible, that all men, and without any evil intentions, will naturally wish to extend their own jurisdiction, and to weaken all the power by which they may be limited and controulled. It is the business of the House of Commons to counteract this tendency. This House had given to its managers no power to abandon its privileges, and the rights of its constituents. They were themselves as little disposed as authorized to make this surrender. They are members of this House, not only charged with the management of this impeachment, but partaking of a general trust, inseparable from the Commons of Great Britain in parliament assembled, one of whose principal functions and duties it is, to be observant of the courts of justice, and to take due care that none of them, from the lowest to the highest, shall pursue new courses unknown to the laws and constitution of this kingdom, or to equity, sound legal policy, or substantial justice. Your committee were not sent into Westminster Hall for the purpose of contributing in their persons, and under the authority of the House, to change the course or law of parliament, which had continued unquestioned for at least four hundred years. Neither was it any part of their mission to suffer precedents to be established, with relation to the law and rule of evidence, which

* All the resolutions of the judges, to the time of the reference to the committee, are in the Appendix, No. 2.

tended in their opinion to shut up for ever all the avenues to justice. They were not to consider a rule of evidence as a means of concealment. They were not, without a struggle, to suffer any subtleties to prevail, which would render a process in parliament, not the terrour, but the protection, of all the fraud and violence arising from the abuse of British power in the East. Accordingly, your managers contended with all their might, as their predecessors in the same place had contended with more ability and learning, but not with more zeal and more firmness, against those dangerous innovations, as they were successively introduced: they held themselves bound constantly to protest, and in one or two instances they did protest, in discourses of considerable length, against those private, and for what they could find, unargued judicial opinions, which must, as they fear, introduce by degrees the miserable servitude which exists where the law is uncertain or unknown.

DEBATES ON EVIDENCE.

The chief debates at the bar, and the decisions of the judges (which we find in all cases implicitly adopted, in all their extent, and without qualification, by the lords) turned upon *evidence*. Your committee, before the trial began, were apprized, by discourses which prudence did not permit them to neglect, that endeavours would be used to embarrass them in their proceedings by exceptions against evidence; that the judgments and opinions of the courts below would be resorted to on this subject; that there the rules of evidence were precise, rigorous, and inflexible; and that the counsel for the criminal would endeavour to introduce the same rules, with the same severity and exactness, into this trial. Your committee were fully assured, and were resolved strenuously to contend, that no doctrine or rule of law, much less the practice of any court, ought to have weight or authority in parliament, further than as such doctrine, rule, or practice, is agreeable to the proceedings in parliament, or hath received the sanction of approved precedent there; or is founded on the immutable principles of substantial justice, without which your committee readily agrees, no practice in any court, high or low, is proper or fit to be maintained.

In this preference of the rules observed in the high court of parliament, pre-eminenly superiour to all the rest, there is no claim made, which the inferiour courts do not make, each with regard to itself. It is well known, that the rules of proceedings in these courts vary, and some of them very essentially; yet the usage of each court is the law of the court, and it would be vain to object to any rule in any court, that it is not the rule of another court. For instance, as a general rule, the court of king's bench, on trials by jury, cannot receive depositions, but must judge by testimony *vive voce*. The rule of the court of chancery is not only not the same, but it is the reverse, and Lord Hardwicke ruled accordingly: "The constant and established proceedings of this court," said this great magistrate, "are on written evidence, like the porceedings on the civil and canon law. This is the course of the court, and the course of the court is the law of the court."—Atkyns, vol. i. p. 446.

Your managers were convinced, that one of the principal reasons, for which this cause was brought into parliament, was the danger that in inferiour courts their rule would be formed naturally upon their ordinary experience and the exigencies of the cases which in ordinary course came before them. This experience, and the exigencies of these cases, extend little further than the concerns of a people comparatively in a narrow vicinage—a people of the same or nearly the same language, religion, manners, laws, and habits. With them, an intercourse of every kind was easy.

These rules of law in most cases, and the practice of the courts in all, could not be easily applicable to a people separated from Great Britain by a very great part of the globe; separated by manners, by principles of religion, and of inveterate habits as strong as nature itself, still more than by the circumstance of local distance. Such confined and inapplicable rules would be convenient indeed to oppression, to extortion, bribery, and corruption, but ruinous to the people, whose protection is the true object of all tribunals, and of all their rules. Even English judges in India, who have been sufficiently tenacious of what they considered as the rules of English courts, were obliged, in many points, and particularly with regard to evidence, to relax very considerably, as the civil and politic government has been obliged to do in several other cases, on account of insuperable difficulties arising from a great diversity of manners, and from what may be considered as a diversity even in the very constitution of their minds: instances of which your committee will subjoin in a future appendix.

Another great cause, why your committee conceived this House had chosen to proceed, in the high court of parliament, was because

the inferiour courts were habituated, with very few exceptions, to try men for the abuse only of their individual and natural powers, which can extend but a little way. Before them, offences, whether of fraud or violence, or both, are, for much the greater part, charged upon persons of mean and obscure condition. Those unhappy persons are so far from being supported by men of rank and influence, that the whole weight and force of the community is directed against them. In this case, they are in general objects of protection as well as of punishment; and the course perhaps ought, as it is *commonly* said to be, not to suffer any thing to be applied to their conviction beyond what the strictest rules will permit. But in the cause which your managers have in charge, the circumstances are the very reverse to what happens in the cases of mere personal delinquency, which come before the inferiour courts. These courts have not before them persons who act, and who justify their acts, by the nature of a despotical and arbitrary power. The abuses, stated in our impeachment, are not those of mere individual, natural faculties, but the abuses of civil and political authority. The offence is that of one who has carried with him in the perpetration of his crimes, whether of violence or of fraud, the whole force of the state; who in the perpetration and concealment of offences, has had the advantage of all the means and powers given to government for the detection and punishment of guilt, and for the protection of the people. The people themselves, on whose behalf the Commons of Great Britain take up this remedial and protecting prosecution, are naturally timid. Their spirits are broken by the arbitrary power usurped over them, and claimed by the delinquent as his law. They are ready to flatter the power which they dread. They are apt to look for favour from their governours, by covering those vices in the predecessor which they fear the successor may be disposed to imitate. They have reason to consider complaints as means not of redress, but of aggravation to their sufferings; and when they shall ultimately hear that the nature of the British laws, and the rules of its tribunals, are such as by no care or study either they, or even the Commons of Great Britain, who take up their cause, can comprehend, but are such as in effect and operation leave them unprotected, and render those who oppress them secure in their spoils, they must think still worse of British justice than of the arbitrary power of the company's servants, which hath been exercised to their destruction. They will be for ever, what, for the greater part they have hitherto been, inclined to compromise with the corruption of the magistrates, as a screen against that violence, from which the laws afford them no redress.

For these reasons, your committee did, and do, strongly contend that the court of parliament ought to be open with great facility to the production of all evidence, except that, which the precedents of parliament teach them authoritatively to reject, or which hath no sort of natural aptitude directly or circumstantially to prove the case. They have been and are invariably of opinion, That the lords ought to *enlarge* (*and not to contract*) *the rules of evidence, according to the nature and difficulties of the case*, for redress to the injured, for the punishment of oppression, for the detection of fraud; and that they ought above all to prevent what is the greatest dishonour to all laws, and to all tribunals—the failure of justice. To prevent the last of these evils, all courts in this and all countries have constantly made all their maxims and principles concerning testimony to conform; although such courts have been bound undoubtedly by stricter rules, both of form and of prescript cases, than the sovereign jurisdiction exercised by the lords on the impeachment of the Commons ever has been, or ever ought to be. Therefore your committee doth totally reject any rules, by which the practice of any inferiour court is affirmed as a directory guide to an higher, especially where the forms and the powers of the judicature are different, and the objects of judicial inquiry are not the same.

Your committee conceives that the trial of a cause is not in the arguments or disputations of the prosecutors and the council, but in the *evidence;* and that to refuse evidence is to refuse to hear the cause: nothing therefore, but the most clear and weighty reasons, ought to preclude its production. Your committee conceives that, when evidence, on the face of it relevant, that is, connected with the party and the charge, was denied to be competent, *the burthen lay upon those who opposed it*, to set forth the authorities, whether of positive statute, known recognized maxims and principles of law, passages in an accredited institute, code, digest, or systematic treatise of laws, or some adjudged cases, wherein the courts have rejected evidence of that nature. No such thing ever (except in one instance, to which we shall hereafter speak) was produced at the bar, nor (that we know of) produced by the lords in their debates, or by the judges in the opinions by them delivered.

Therefore, for any thing which as yet appears to your committee to the contrary, these responses and decisions were, in many of the points, not the determinations of any law whatsoever, but mere arbitrary decrees, to which we could not without solemn protestation submit.

Your committee, at an early period, and frequently since the commencement of this trial, have neglected no means of research, which might afford them information concerning these supposed strict and inflexible rules of proceeding, and of evidence, which appeared to them destructive of all the means and ends of justice:—and, first, they examined carefully the rolls and journals of the House of Lords, as also the printed trials of cases before that court.

Your committee finds but one instance, in the whole course of parliamentary impeachments, in which evidence offered by the Commons has been rejected on the plea of inadmissibility or incompetence. This was in the case of Lord Strafforde's trial; when the copy of a warrant (the same not having any attestation to authenticate it as a true copy) was, on deliberation, not admitted; and your committee thinks, as the case stood, with reason. —But even in this one instance, the lords seemed to show a marked anxiety not to narrow too much the admissibility of evidence, for they confined their determination "to this individual case," as the lord steward reported their resolution; and, he adds, "they conceive this to be no impediment or failure in the proceeding, because the truth and verity of it would depend on the first general power given to execute it, which they who manage the evidence for the Commons say they could prove." —Neither have objections to evidence offered by the prisoner been very frequently made, nor often allowed when made. In the same case of Lord Strafforde, two books produced by his lordship, without proof by whom they were written, were rejected (and on a clear principle) "as being private books, and no records." On both these occasions, the questions were determined by the lords alone, without any resort to the opinions of the judges. In the impeachments of Lord Strafforde, Dr. Sacheverell, and Lord Wintoun, no objection to evidence appears in the lords' journals to have been pressed, and not above one taken, which was on the part of the managers.

Several objections were indeed taken to evidence in the Lord Macclefield's trial. They were made on the part of the manager, except in two instances, where the objections were made by the witnesses themselves. They were all determined (those started by the managers in their favour) by the lords themselves, without any reference to the judges. In the discussion of one of them, a question was stated for the judges concerning the law in a similar case upon an information in the court below; but it was set aside by the previous question.

On the impeachment of Lord Lovat, no more than one objection to evidence was taken by the managers, against which Lord Lovat's counsel were not permitted to argue. Three objections on the part of the prisoner were made to the evidence offered by the managers, but all without success. The instances of similar objections in parliamentary trials of peers on indictments, are too few and too unimportant to require being particularized—one, that in the case of Lord Warwick, has been already stated.

The principles of these precedents do not in the least affect any case of evidence which your managers had to support. The paucity and inapplicability of instances of this kind, convince your committee that the lords have ever used some latitude and liberality in all the means of bringing information before them—nor is it easy to conceive, that, as the lords are, and of right ought to be, judges of law and fact, many cases should occur (except those where a personal *vive voce* witness is denied to be competent) in which a judge, possessing an entire judicial capacity, can determine by anticipation what is good evidence, and what not, before he has heard it. When he has heard it, of course he will judge what weight it is to have upon his mind, or whether it ought not entirely to be struck out of the proceedings.

Your committee, always protesting, as before, against the admission of any law, foreign or domestic, as of authority in parliament, further than as written reason, and the opinion of wise and informed men, has examined into the writers on the civil law, antient and more recent, in order to discover what those rules of evidence, in any sort applicable to criminal cases, were, which were supposed to stand in the way of the trial of offences committed in India.

They find, that the term evidence, *evidentia*, from whence ours is taken, has a sense different in the Roman law, from what it is understood to bear in the English jurisprudence. The term most nearly answering to it in the Roman, being *probatio*, proof; which, like the term *evidence*, is a generic term, including every thing by which a doubtful matter may be

rendered more certain to the judge; or, as Gilbert expresses it, every matter is evidence which amounts to the proof of the point in question.

On the general head of evidence or proof, your committee finds, that much has been written by persons learned in the Roman law, particularly in modern times; and that many attempts have been made to reduce to rules the principles of evidence or proof, a matter which by its very nature seems incapable of that simplicity, precision, and generality, which are necessary to supply the matter, or to give the form to a rule of law. Much learning has been employed on the doctrine of indications and presumptions, in their books; far more than is to be found in our law. Very subtle disquisitions were made, on all matters of jurisprudence, in the times of the classical civil law, by the followers of the Stoic school. In the modern school of the same law, the same course was taken by Bartolus, Baldus, and the civilians who followed them, before the complete revival of literature. All the discussions to be found in those voluminous writings furnish undoubtedly an useful exercise to the mind, by methodizing the various forms, in which one set of facts, or collection of facts, or the qualities or demeanour of persons, reciprocally influence each other; and, by this course of juridical discipline, they add to the readiness and sagacity of those who are called to plead or to judge. But as human affairs and human actions are not of a metaphysical nature, but the subject is concrete, complex, and moral, they cannot be subjected (without exceptions which reduce it almost to nothing) to any certain rule. Their rules with regard to competence were many and strict, and our lawyers have mentioned it to their reproach. "The civilians (it has been observed) differ in nothing more than admitting evidence; for they reject histriones, &c. and whole tribes of people." But this extreme rigour as to competency, rejected by our law, is not found to extend to the *genus* of evidence, but only to a particular species—personal witnesses. Indeed, after all their efforts to fix these things by positive and inflexible maxims, the best Roman lawyers in their best ages were obliged to confess, that every case of evidence rather formed its own rule, than that any rule could be adopted to every case: The best opinions, however, seem to have reduced the admissibility of witnesses to a few heads. "For if," said Calistratus, in a passage preserved to us in the digest, "the testimony is free from suspicion, either on account of the quality of the *person*, namely, that he is in a reputable situation; or for *cause*, that is to say, that the testimony given is not for reward, nor favour, nor for enmity, such a witness is admissible." This first description goes to *competence*; between which and *credit*, Lord Hardwicke justly says the discrimination is very nice: the other part of the text shows their anxiety to reduce credibility itself to a fixed rule. It proceeds, therefore, "His sacred majesty, Hadrian, issued a rescript to Vivius Varus, lieutenant of Cilicia, to this effect, That he who sits in judgment is the most capable of determining what credit is to be given to witnesses." The words of the letter of rescript are as follow "You ought best to know what credit is to be given to witnesses,—who, and of what dignity, and of what estimation they are, whether they seem to deliver their evidence with simplicity and candour—whether they seem to bring a formed and premeditated discourse—or whether on the spot they give probable matter in answer to the questions that are put to them." And there remains a rescript of the same prince to Valerius Varus on the bringing out the credit of witnesses. This appears to go more to the *general* principles of evidence. It is in these words: "What evidence, and in what measure or degree, shall amount to proof in each case, can be defined in no manner whatsoever that is sufficiently certain. For, though not always, yet frequently, the truth of the affair may appear without any matter of public record. In some cases, the number of the witnesses, in others their dignity and authority, is to be weighed; in others, concurring public fame tends to confirm the credit of the evidence in question. This alone I am able, and in a few words, to give you as my determination, that you ought not too readily to bind yourself to try the cause upon any one description of evidence; but you are to estimate by your own discretion what you ought to credit, or what appears to you not to be established by proof sufficient.

The modern writers on the civil law have likewise much matter on this subject, and have introduced a strictness, with regard to personal testimony, which our particular jurisprudence has not thought it at all proper to adopt. In others we have copied them more closely. They divide evidence into two parts, in which they do not differ from the antients. 1st. What is evidence, or proof by itself? 2dly. What is presumption, "which is a probable conjecture from a reference to something which, coming from marks and tokens ascertained, shall be taken for truth, until some

other shall be adduced?" Again, they have laboured particularly to fix rules for presumptions, which they divide into, 1. Violent and necessary. 2. Probable. 3, and lastly, Slight and rash. But, finding that this head of presumptive evidence (which makes so large a part with them and with us in the trial of all causes, and particularly criminal causes) is extremely difficult to ascertain, either with regard to what shall be considered as exclusively creating any of these three degrees of presumption, or what facts, and how proved,—and what marks and tokens may serve to establish them,—even those civilians, whose character it is to be subtle to a fault, have been obliged to abandon the task—and have fairly confessed, that the labours of writers to fix rules for these matters have been vain and fruitless. One of the most able of them has said, "That the doctors of the law have written nothing of value concerning presumptions; nor is the subject matter such as to be reduced within the prescribed limit of any certain rules. In truth, it is from the actual existing case, and from the circumstances of the persons, and of the business, that we ought (under the guidance of an incorrupt judgment of the mind, which is called an equitable discretion) to determine what presumptions or conjectural proofs are to be admitted as rational, or rejected as false, or on which the understanding can pronounce nothing, either the one way or the other."

It is certain, that whatever over strictness is to be found in the older writers on this law, with regard to evidence, it chiefly related to the mere competency of witnesses; yet even here the rigour of the Roman lawyers relaxed on the necessity of the case. Persons who kept houses of ill fame were with them incompetent witnesses; yet among the maxims of that law, the rule is well known of "*Testes lupanares in re lupanari.*"

In ordinary cases, they require two witnesses to prove a fact; and therefore they held, "that if there be but one witness, and no probable grounds of presumption of some kind (*nulla argumenta*) that one witness is by no means to be heard;" and it is not inelegantly said in that case, *Non jus deficit, sed probatio*, "the failure is not in the law, but in the proof." But if other grounds of presumption appear, one witness is to be heard; "for it is not necessary that one crime should be established by one sort of proof only, as by witnesses, or by documents, or by presumptions; all the modes of evidence may be so conjoined, that where none of them alone would affect the prisoner, all the various concurrent proofs should overpower him, like a storm of hail." This is held particularly true in cases where crimes are secret, and detection difficult. The necessity of detecting and punishing such crimes superseded, in the soundest authors, this theoretic aim at perfection, and obliged technical science to submit to practical expedience. *In re criminali*, said the rigourists, *Probationes debent esse evidentes et luce meridianâ, clariores;* and so undoubtedly it is in offences which admit such proof. But reflection taught them, that even their favourite rules of incompetence must give way to the exigencies of distributive justice. One of the best modern writers on the imperial criminal law, particularly as practised in Saxony (Carpzovius) says, "This alone I think it proper to remark, that even incompetent witnesses are sometimes admitted, if otherwise the truth cannot be got at; and this particularly in facts and crimes which are of difficult proof,"—and for this doctrine he cites Farinacius, Mascardus, and other eminent civilians who had written on evidence.—He proceeds afterwards—"However, this is to be taken with a caution, that the impossibility of otherwise discovering the truth is not construed from hence, that other witnesses were not actually concerned, but that from the nature of the crime, or from regard had to the place and time, other witnesses could not be present." Many other passages from the same authority, and from others to a similar effect, might be added: We shall only remark shortly, that Gaill, a writer on the practice of that law the most frequently cited in our own courts, gives the rule more in the form of a maxim; "That the law is contented with such proof as *can* be made, if the subject in its *nature* is difficult of proof." And the same writer, in another passage, refers to another still more general maxim (and a sound maxim it is) that the power and means of proof ought not be narrowed but enlarged, that the truth may not be concealed: *Probationum facultas non angustari, sed ampliari debeat, ne veritas occultetur.*

On the whole, your committee can find nothing in the writings of the learned in this law any more than they could discover any thing in the law of parliament, to support any one of the determinations given by the judges, and adopted by the lords, against the evidence which your committee offered, whether direct and positive, or merely (as for the greater part it was) circumstantial, and produced as a ground to form legitimate presumption against the defendant: nor, if they were to admit (which

they do not) this civil law to be of authority in furnishing any rule in an impeachment of the Commons, more than as it may occasionally furnish a principle of reason on a new or undetermined point, do they find any rule, or any principle, derived from that law, which could or ought to have made us keep back the evidence which we offered. On the contrary, we rather think those rules and principles to be in agreement with our conduct.

As to the canon law, your committee, finding it to have adopted the civil law with no very essential variation, does not feel it necessary to make any particular statement on that subject.

Your committee then came to examine into the authorities in the English law, both as it has prevailed for many years back, and as it has been recently received in our courts below. They found on the whole the rules rather less strict, more liberal, and less loaded with positive limitations, than in the Roman law. The origin of this latitude may perhaps be sought in this circumstance, which we know to have relaxed the rigour of the Roman law—courts in England do not judge, upon evidence, *secundum allegata et probata*, as in other countries and under other laws they do, but upon verdict. By a fiction of law, they consider the jury as supplying in some sense the place of testimony. One witness (and for that reason) is allowed sufficient to convict, in cases of felony, which in other laws is not permitted.

In antient times it has happened to the law of England (as in pleading, so in matter of evidence.) that a rigid strictness in the application of technical rules, has been more observed than at present it is. In the more early ages, as the minds of the judges were in general less conversant in the affairs of the world, as the sphere of their jurisdiction was less extensive, and as the matters which came before them were of less variety and complexity, the rule being in general right, not so much inconvenience on the whole was found from a literal adherence to it, as might have arisen from an endeavour towards a liberal and equitable departure, for which further experience, and a more continued cultivation of equity as a science, had not then so fully prepared them. In those times, that judicial policy was not to be condemned. We find too, that, probably from the same cause, most of their doctrine leaned towards the restriction; and the old lawyers being bred, according to the then philosophy of the schools, in habits of great subtlety and refinement of distinction, and having once taken that bent, very great acuteness of mind was displayed in maintaining every rule, every maxim, every presumption of law creation, and every fiction of law, with a punctilious exactness; and this seems to have been the course which laws have taken in every nation.* It was probably from this rigour, and from a sense of its pressure, that, at an early period of our law, far more causes of criminal jurisdiction were carried into the House of Lords, and the council board, where laymen were judges, than can or ought to be at present.

As the business of courts of equity became more enlarged, and more methodical; as magistrates, for a long series of years, presided in the court of chancery, who were not bred to the common law; as commerce, with its advantages and its necessities, opened a communication more largely with other countries; as the law of nature and nations (always a part of the law of England) came to be cultivated; as an increasing empire; as new views and new combinations of things were opened, this antique rigour and overdone severity gave way to the accommodation of human concerns, for which rules were made, and not human concerns made to bend to them.

At length, Lord Hardwicke, in a case the most solemnly argued of any within the memory of man, with the aid of the greatest learning at the bar, and with the aid of all the learning on the bench, both bench and bar being then supplied with men of the first form, declared from the bench, and in concurrence with the rest of the judges, and with the most learned of the long robe, the able council on the side of the old restrictive principles, making no reclamation —" That the judges and sages of the law have laid it down, that there is but ONE general rule of evidence—the best that the nature of the case will admit." This, then, the master rule, that governs all the subordinate rules, does in reality subject itself and its own virtue and authority to the nature of the case; and leaves no rule at all of an independent, abstract, and substantive quality. Sir Dudley Ryder (then attorney-general, afterwards chief justice) in his learned argument observed—" It is extremely proper, that there should be *some* general rules in relation to evidence; but if exceptions are not allowed to them, it would be better to demolish all the general rules.—There is no general rule without exception that

* Antiqua jurisprudentia aspera quidem illa, et tenebricosa, tristis, non tam in æquitate, quam in verborum superstitione fundata, eaque Ciceronis ætatem fere attigit, mansitque annos circiter 350. Quæ hanc excepit, viguitque annos fere 79, superiori longe humanior; quippe quæ magis utilitate communi, quam potestate verborum, negocia moderaretur. Gravina, p. 88.

we know of, but this, that the best evidence shall be admitted, which the nature of the case will afford. I will show, that rules, as general as this, are broke in upon, for the sake of allowing evidence. There is no rule that seems more binding, than that a man shall not be admitted an evidence in his own case, and yet the statute of Hue and Cry is an exception. A man's books are allowed to be evidence, or, which is in substance the same, his servant's books, because the nature of the case requires it; as in the case of a brewer's servants.—Another general rule, that a wife cannot be witness against her husband, has been broke in upon in cases of treason: That the last words of a dying man are given in evidence, in the case of murder, is also an exception to the general rule, that a man may not be examined without oath." Such are the doctrines of this great lawyer.

Chief justice Willes concurs with Lord Hardwicke as to dispensing with strict rules of evidence. "Such evidence," he says, "is to be admitted as the *necessity* of the case will allow of; as, for instance, a marriage at Utrecht, certified under the seal of the minister there, and of the said town, and that they cohabited together as man and wife, was held to be sufficient proof that they were married." This learned judge (commenting upon Lord Coke's doctrine, and Sergeant Hawkins's after him, that the oaths of Jews and Pagans were not to be taken) says, "That this notion, though advanced by so great a man, is contrary to religion, common sense, and common humanity, and I think the devils, to whom he has delivered them, could not have suggested any thing worse." The chief justice, admitting Lord Coke to be a great lawyer, then proceeds in very strong terms, and with marks of contempt, to condemn "his narrow notions;" and he treats with as little respect or decorum the antient authorities referred to in defence of such notions.

The principle of the departure from those rules is clearly fixed by Lord Hardwicke: he lays it down as follows: "The first ground judges have gone upon in departing from strict rules, is absolute strict necessity. 2dly. A *presumed* necessity." Of the first he gives these instances; "In the case of writings subscribed by witnesses, if all are dead, the proof of one of their hands is sufficient to establish the deed. Where an original is lost, a copy may be admitted; if no copy, then a proof by witnesses who have *heard* the deed; and yet it is a thing the law abhors, to admit the memory of man for evidence." This enlargement through two stages of proof, both of them contrary to the rule of law, and both abhorrent from its principles, are by this great judge accumulated upon one another, and are admitted from *necessity*, to accommodate human affairs, and to prevent that, which courts are by every possible means instituted to prevent—A FAILURE OF JUSTICE. And this necessity is not confined within the strict limits of physical causes, but is more lax, and takes in *moral, and even presumed and argumentative necessity*, a necessity which is in fact nothing more than a great degree of expediency. The law creates a fictitious necessity against the rules of evidence in favour of the convenience of trade: An exception, which on a similar principle had before been admitted in the civil law, as to mercantile causes, in which the books of the party were received to give full effect to an insufficient degree of proof, called in the nicety of their distinctions a *semiplena probatio*.

But to proceed with Lord Hardwicke:—he observes, that "a tradesman 's books (that is, the acts of the party interested, himself) are admitted as evidence, not through *absolute necessity*, but by reason of a *presumption* of necessity *inferred* only from the nature of commerce. No rule," continued Lord Hardwicke, "can be more settled, than that testimony is not to be received but upon oath; but he lays it down, that an oath itself may be dispensed with. "There is another instance," says he, "where the lawful oath may be dispensed with, namely, where our courts admit evidence for the crown without oath."

In the same discussion, the chief baron (Parker) cited cases, in which all the rules of evidence had given way. "There is not a more general rule," says he, "than that hearsay cannot be admitted, nor husband and wife as witnesses against each other; and yet it is notorious that from necessity they have been allowed, not an absolute necessity, but a moral one."

It is further remarkable, in this judicial argument, that exceptions are allowed not only to rules of evidence, but that the rules of evidence themselves are not altogether the same, where the subject matter varies. The judges have, to facilitate justice, and to favour commerce, even adopted the rules of foreign laws. They have taken for granted, and would not suffer to be questioned, the regularity and justice of the proceedings of foreign courts, and they have admitted them as evidence, not only of the fact of the decision, but of the right as to its legality: where there are foreign par-

ties interested, and in "commercial matters, the rules of evidence are not quite the same as in other instances in courts of justice. The case of Hue and Cry, Brownlow, 47, a feme covert is not a lawful witness against her husband, except in cases of treason, but has been admitted in civil cases.* The testimony of a public notary is evidence by the law of France; contracts are made before a public notary, and no other witness necessary. I should think it would be no doubt at all, if it came in question here, whether this would be a valid contract; but a testimony from persons of that credit and reputation would be received as a very good proof in foreign transactions, and would authenticate the contract."—Chro. Chal. 365.

These cases show, that courts always govern themselves by these rules in cases of foreign transactions. To this principle Lord Hardwicke accords; and enlarging the rule of evidence by the nature of the subject, and the exigencies of the case, he lays it down—"that it is a common and *natural* presumption, that persons of the Gentoo religion should be principally apprized of facts and transactions in their own country. As the English have only a factory in this country, for it is in the empire of the great Mogul, if we should admit this evidence [Gentoo evidence on a Gentoo oath] it would be agreeable to the genius of the law of England." For this he cites the proceedings of our court of admiralty, and adopts the opinion of the author who states the precedent—"That this court will give credit to the sentence of the court of admiralty in France, and take it to be according to right, and will not examine their proceedings; for it would be found very inconvenient if one kingdom should, by peculiar laws, correct the judgments and proceedings of another kingdom." Such is the genius of the law of England, that these two principles of the general moral necessities of things, and the nature of the case, overrule every other principle, even those rules which seem the very strongest. Chief baron Parker, in answer to an objection made against the infidel deponent, "that the plaintiff ought to have shown that he could not have the evidence of Christians," says, "that, repugnant to natural justice, in the statute of Hue and Cry, the robbed is admitted to be witness of the robbery, as a moral or presumed necessity is sufficient." The same learned magistrate, pursuing his argument in favour of liberality, in opening and enlarging the avenues to justice, does not admit "that the authority of one or two cases is valid against reason, equity, and convenience, the vital principles of the law." He cites Wells versus Williams, 1 Raymond 282, to show that the necessity of trade has mollified the too rigorous rules of the old law, in their restraint and discouragement of aliens. "A Jew may sue at *this* day, but *heretofore he could not*, for then they were looked upon as enemies, but now commerce has taught the world more humanity; and therefore held that an alien enemy, commorant here by the license of the king, and under his protection, may maintain a debt upon a bond, though he did not come with safe conduct." So far Parker, concurring with Raymond. He proceeds, "It was objected by the defendant's counsel that this is a novelty, and that what never has been done ought not to be done." The answer is, "The law of England is not confined to particular cases: but is much more governed by reason than by any one case whatever. The true rule is laid down by Lord Vaughan, fol. 37, 38, where the law, saith he, is *known and clear*, the judges must determine as the law is, without regard to the inequitableness or inconveniency. These defects, if they happen in the law, can only be remedied by parliament—but where the law is doubtful and not clear, the judges ought to interpret the law to be as is most consonant to equity, and what is least inconvenient."

These principles of equity, convenience, and natural reason, lord chief justice Lee considered in the same ruling light, not only as guides in matter of interpretation concerning law in general, but, in particular, as controullers of the whole law of evidence, which being artificial, and made for convenience, is to be governed by that convenience for which it is made, and is to be wholly subservient to the stable principles of substantial justice. "I do apprehend," said that chief justice, "that the rules of evidence are to be considered as artificial rules, framed by men for convenience in courts of justice. This is a case that ought to be looked upon in that light; and I take it, that considering evidence in this way [viz. according to natural justice] is agreeable to the genius of the law of England."

The sentiments of Murray, then solicitor-general, afterwards Lord Mansfield, are of no small weight in themselves, and they are

* N. B. In some criminal cases also, though not of treason, husband is admitted to prove an assault upon his wife, for the King, ruled by Raymond, chief justice, Trin. 11th Geo. King versus Azire. And for various other exceptions, see Buller's Nisi Prius, 286, 287.

authority by being judicially adopted. His ideas go to the growing melioration of the law, by making its liberality keep pace with the demands of justice, and the actual concerns of the world; not restricting the infinitely diversified occasions of men, and the rules of natural justice, within artificial circumscriptions, but conforming our jurisprudence to the growth of our commerce and of our empire. This enlargement of our concerns, he appears, in the year 1744, almost to have foreseen, and he lived to behold it. "The arguments on the other side," said that great light of the law, (that is, arguments against admitting the testimony in question from the novelty of the case) "prove nothing. Does it follow from thence, that no witnesses can be examined in a case that never specially existed before? or that an action cannot be brought in a case that never happened before? Reason (being stated to be the first ground of all laws, by the author of the book called Doctor and Student) must determine the case. Therefore, the only question is, whether upon principles of reason, justice, and convenience, this witness be admissible?" "Cases in law depend upon the *occasions* which gave rise to them. All occasions do not arise at once: Now a particular species of Indians appears; hereafter another species of Indians may arise. A statute can seldom take in all cases. Therefore the common law, that works itself pure by rules drawn from the fountain of justice, is for this reason superiour to an act of parliament."

From the period of this great judgment to the trial of Warren Hastings, Esquire, the law has gone on continually working itself pure (to use Lord Mansfield's expression) by rules drawn from the fountain of justice. "General rules," said the same person, when he sat upon the bench, "are wisely established for attaining justice with ease, certainty, and despatch. But the great end of them being to *do justice*, the court will see that it be really obtained. The courts have been more liberal of late years in their determinations, and have more endeavoured to attend to the real justice of the case than formerly." On another occasion, of a proposition for setting aside a verdict, he said, "This seems to be the true way to come at justice, and what we therefore ought to do; for the true text is *boni judicis est ampliari justitiam*, not *jurisdictionem*, as has been often cited." In conformity to this principle, the supposed rules of evidence have, in late times and judgments, instead of being drawn to a greater degree of strictness, been greatly relaxed.

"All evidence is according to the subject matter to which it is applied. There is a great deal of difference between length of time that operates as a bar to a claim, and that which is used only by way of evidence. For instance, length of time, merely as it affects evidence, may be left to the consideration of the jury, and the evidence itelf credited or not, according to the inference that may be drawn, one way or the other, from the circumstances of the case." In all cases of evidence, Lord Mansfield's maxim was to lean to admissibility, leaving the objections, which were made to competency, to go to credit, and to be weighed in the minds of the jury, after they had heard it. In objections to wills, and to the testimony of witnesses to them, he thought "it clear that the judges ought to lean against objections raised on the ground of informality."

Lord Hardwicke had before declared, with great truth, "That the boundaries of what goes to the credit, and what to the competency, are very nice, and that the latter may be carried too far;" and in the same case he said, "that unless the objection appeared to him to carry a strong danger of perjury, and some apparent advantage that might accrue to the witness, he was always inclined to let it go to his credit, only in order to let in a proper light to the case, which would otherwise be shut out; and in a doubtful case, he said, it was generally his custom to admit the evidence, and give such directions to the jury as the nature of the case might require."

It is a known rule of evidence, that an interest in the matter to be supported by testimony, disqualifies a witness; yet Lord Mansfield held, "That nice objections to a remote interest, which could not be released, though they held in other cases, were not allowed to disqualify a witness to a will, (as in the case of parishioners having a devise to the use of the poor of the parish for ever.)" He went still further, and his doctrine tends so fully to settle the principle of departure from, or adherence to, rules of evidence, that your committee inserts part of the argument at large. "The disability of a witness from interest is very different from a positive incapacity. If a deed must be acknowledged before a judge or notary public, every other person is under a positive incapacity to authenticate it; but objections of interest are deductions from natural reason, and proceed upon a presumption of too great a bias in the mind of the witness, and the public utility of rejecting partial testimony. Presumptions stand no longer than till the contrary

is proved. The presumption of bias may be taken off by showing that the witness has a great or a greater interest the other way, or that he has given it up. The presumption of public utility may be answered, by showing that it would be very inconvenient, under the particular circumstances, not to receive such testimony. Therefore, from the course of business, necessity, and other reasons of expedience, *numberless exceptions* are allowed to the *general* rule."

These being the principles of later jurisprudence, the judges have suffered no positive rule of evidence to counteract those principles. They have even suffered subscribing witnesses to a will, which recites the soundness of mind in the testator, to be examined to prove his insanity, even when the court received evidence to overturn that testimony, and to destroy the credit of those witnesses. Five witnesses had attested a will and codicil. They were admitted to annul the will which they had themselves attested. Objections were taken to the competency of one of the witnesses in support of the will against the testimony of its subscribing witnesses. 1st, That the witness was an executor in trust, and so liable to actions. 2dly, As having acted under the trust; whereby, if the will were set aside, he would be liable to answer for damages incurred by the sale of the deceased's chambers to a Mr. Frederick. Mr. Frederick offered to submit to a rule to release, for the sake of public justice. Those who maintained the objection cited Sidersin, a reporter of much authority, 51, 115, and 1st Keble 134. Lord Mansfield, chief justice, did not controvert those authorities; but in the course of obtaining substantial justice, he treated both of them with equal contempt, though determined by judges of high reputation. His words are remarkable: "We do not *now* sit here to take our rules of evidence from Sidersin and Keble." He overruled the objection upon more recent authorities, which, though not in similar circumstances, he considered as within the reason. The court did not think it necessary that the witness should release, as he had offered to do. "It appeared on this trial (says Justice Blackstone) that a black conspiracy was formed to set aside the gentleman's will, without any foundation whatever." A prosecution against three of the testamentary witnesses was recommended, who were afterwards convicted of perjury. Had strict formalities, with regard to evidence, been adhered to in any part of this proceeding, that very black conspiracy would have succeeded; and those black conspirators, instead of receiving the punishment of their crimes, would have enjoyed the reward of their perjury.

Lord Mansfield, it seems, had been misled, in a certain case, with regard to precedents. His opinion was against the reason and equity of the supposed practice, but he supposed himself not at liberty to give way to his own wishes and opinions. On discovering his errour, he considered himself as freed from an intolerable burthen, and hastened to undo his former determination. "There are no precedents," said he, with some exultation, "which stand in the way of our determining liberally, equitably, and according to the true intention of the parties." In the same case, his learned assessour, Justice Wilmot, felt the same sentiments. His expressions are remarkable: "Courts of law ought to concur with courts of equity, in the execution of those powers which are very convenient to be inserted in settlements; and they ought not to listen to nice distinctions, that savour of the schools, but to be guided by true good sense and manly reason. After the statute of Uses, it is much to be lamented, that the courts of common law had not adopted all the rules and maxims of the courts of equity. This would have prevented the absurdity of receiving costs in one court, and paying them in another."

Your committee does not produce the doctrine of this particular case, as directly applicable to their charge, no more than several of the others here cited. We do not know on what precedents or principles the evidence proposed by us has been deemed inadmissible by the judges; therefore against the grounds of this rejection, we find it difficult directly to oppose any thing. These precedents and these doctrines are brought to show the general temper of the courts, their growing liberality, and the general tendency of all their reasonings and all their determinations to set aside all such technical subtleties, or formal rules, which might stand in the way of the discovery of truth, and the attainment of justice. The cases are adduced for the principles they contain.

The period of the cases and arguments we have cited, was that in which large and liberal principles of evidence were more declared, and more regularly brought into system. But they had been gradually improving; and there are few principles of the later decisions which are not to be found in determinations on cases prior to the time we refer to. Not to overdo this matter, and yet to bring it with some degree of clearness before the House, your committee will refer but to a few authorities, and those which seem most immediately to

relate to the nature of the cause entrusted to them. In Michaelmas, 11 W. III. the King v. the Warden of the Fleet—A witness, who had really been a prisoner, and voluntarily suffered to escape, was produced to prove the escape. To the witness it was objected, that he had given a bond to be a true prisoner, which he had forfeited by escaping; besides, he had been retaken. His testimony was allowed; and by the court, among other things, it was said, In secret transactions, if any of the parties concerned are not to be, for the necessity of the third, admitted as evidence, it will be impossible to detect the practice; as in cases of the statute of Hue and Cry, the party robbed shall be a witness to charge the hundred; and in the case of Cooke v. Watts in the Exchequer, where one who had been prejudiced by the will was admitted an evidence to prove it forged.* So in the case of King v. Harris where a feme covert was admitted as a witness for *fraudulently* drawing her in, when sole, to give a warrant of attorney for confessing a judgment on an unlawful consideration, whereby execution was sued out against her husband; and Holt, chief justice, held, that a feme covert could not, by law, be a witness to convict one on an information; yet, in Lord Audley's case, it being a rape on her person, she was received to give evidence against him, and the court concurred with him, because it was the best evidence the nature of the thing would allow. This decision of Holt refers to others more early, and all on the same principle; and it is not of this day that this one great principle of eminent public expedience, this moral necessity,† "that crimes should not escape with impunity," has in all cases overborne all the common juridical rules of evidence—It has even prevailed over the first and most natural construction of acts of parliament, and that in matters of so penal a nature as high treason. It is known that statutes made, not to open and enlarge, but on fair grounds, to straiten proofs, require two witnesses in cases of high treason. So it was understood without dispute, and without distinction, until the argument of a case in the high court of justice, during the usurpation. It was the case of the Presbyterian minister, Love, tried for high treason against the commonwealth, in an attempt to restore the king. In this trial, it was contended for and admitted, that one witness to one overt act, and one to another overt act of the same treason, ought to be deemed sufficient. This precedent, though furnished in times from which precedents were cautiously drawn, was received as authority throughout the whole reign of Charles the Second. It was equally followed after the revolution; and at this day it is undoubted law. It is not so from the natural or technical rules of construction of the act of parliament, but from the principles of juridical policy. All the judges who have ruled it, all the writers of credit who have written upon it, assign this reason, and this only, That treasons being plotted in secrecy, could in few cases be otherwise brought to punishment.

The same principle of policy has dictated a principle of relaxation, with regard to severe rules of evidence, in all cases similar, though of a lower order in the scale of criminality. It is against fundamental maxims, that an accomplice should be admitted as a witness. —But accomplices are admitted from the policy of justice, otherwise confederacies of crime could not be dissolved.

There is no rule more solid, than that a man shall not entitle himself to profit by his own testimony. But an informer, in case of highway robbery, may obtain forty pounds to his own profit by his own evidence: this is not in consequence of positive provision in the act of parliament—it is a provision of policy, lest the purpose of the act should be defeated.

Now, if policy has dictated this very large construction of an act of parliament, concerning high treason; if the same policy has dictated exceptions to the clearest and broadest rules of evidence, in other highly penal causes; and if all this latitude is taken concerning matters for the greater part within our insular bounds;—your committee could not, with safety to the larger and more remedial justice of the law of parliament, admit any rules or pretended rules, uncorrected and uncontrouled by circumstances, to prevail in a trial, which regarded offences of a nature difficult of detection, and committed far from the sphere of the ordinary practice of our courts.

If any thing of an over-formal strictness is introduced into the trial of Warren Hastings, Esquire, it does not seem to be copied from the decisions of these tribunals. It is with great satisfaction your committee has found, that the reproach of "disgraceful subtleties," inferiour rules of evidence, which prevent the discovery of truth, of forms, and

* In this single point Holt did not concur with the rest of the judges.

† Interest Reipublicæ ut maleficia ne remaneant impunita.

modes of proceeding, which stand in the way of that justice, the forwarding of which is the sole rational object of their invention, cannot fairly be imputed to the common law of England, or to the ordinary practice of the courts below.

CIRCUMSTANTIAL EVIDENCE, &c.

The rules of evidence in civil and in criminal cases, in law and in equity, being only reason methodized, are certainly the same. Your committee however finds, that the far greater part of the law of evidence to be found in our books, turns upon questions relative to civil concerns. Civil cases regard property: Now, although property itself is not, yet almost every thing concerning property, and all its modifications, is of artificial contrivance. The rules concerning it become more positive, as connected with positive institution. The legislator therefore always, the jurist frequently, may ordain certain methods, by which alone they will suffer such matters to be known and established; because, their very essence, for the greater part, depends on the arbitrary conventions of men. Men act on them with all the power of a Creator over his creature. They make fictions of law, and presumptions of law (*presumptiones juris et de jure*) according to their ideas of utility—and against those fictions and against presumptions so created, they do and may reject all evidence. However, even in these cases there is some restraint. Lord Mansfield has let in a liberal spirit against the fictions of law themselves; and he declared, that he would do, what in one case he actually did, and most wisely—that he would admit evidence against a fiction of law, when the fiction militated against the policy on which it was made.

Thus it is with things which owe their existence to men: But, where the subject is of a physical nature, or of a moral nature, independent of their conventions, men have no other reasonable authority, than to register and digest the results of experience and observation. Crimes are the actions of physical beings, with an evil intention abusing their physical powers against justice, and to the detriment of society; in this case, fictions of law and artificial presumptions (*juris et jure*) have little or no place. The presumptions which belong to criminal cases are those natural and popular presumptions which are only observations turned into maxims, like adages and apothegms, and are admitted (when their grounds are established) in the place of proof, where better is wanting, but are to be always overturned by counter proof.

These presumptions mostly go to the *intention*. In all criminal cases, the crime (except where the law itself implies malice) consists rather in the intention than the action. Now, the intention is proved but by two ways; either, 1st, by confession—this first case is rare but simple—2dly, by circumstantial proof—this is difficult, and requires care and pains. The connexion of the intention and the circumstances is plainly of such a nature, as more to depend on the sagacity of the observer, than on the excellence of any rule. The pains taken by the civilians on that subject, have not been very fruitful; and the English law writers have, perhaps, as wisely, in a manner abandoned the pursuit. In truth, it seems a wild attempt to lay down any rule for the proof of intention by circumstantial evidence; all the acts of the party; all things that explain or throw light on these acts; all the acts of others relative to the affair, that come to his knowledge, and may influence him; his friendships and enmities, his promises, his threats, the truth of his discourses, the falsehood of his apologies, pretences, and explanations; his looks, his speech; his silence where he was called to speak; every thing which tends to establish the connexion between all these particulars;—every circumstance, precedent, concomitant and subsequent, become parts of circumstantial evidence. These are in their nature infinite, and cannot be comprehended within any rule, or brought under any classification.

Now, as the force of that presumptive and conjectural proof rarely, if ever, depends on one fact only, but is collected from the number and accumulation of circumstances concurrent in one point, we do not find an instance, until this trial of Warren Hastings, Esquire, (which has produced many novelties) that attempts have been made by any court to call on the prosecutor for an account of the purpose for which he means to produce each particle of this circumstantial evidence, to take up the circumstances one by one, to prejudge the efficacy of each matter separately in proving the point; and thus to break to pieces and to garble those facts, upon the multitude of which, their combination, and the relation of all their component parts to each other, and to the culprit, the whole force and virtue of this evidence depends. To do any thing which can destroy this collective effect, is to deny circumstantial evidence.

Your committee too cannot but express their

surprise, at the particular period of the present trial, when the attempts to which we have alluded first began to be made. The two first great branches of the accusation of this House against Warren Hastings, Esquire, relate to public and notorious acts, capable of direct proof; such as the expulsion of Cheit Sing, with its consequences on the province of Benares, and the seizure of the treasures and jaghires of the begums of Oude. Yet, in the proof of those crimes, your committee cannot justly complain, that we were very narrowly circumscribed in the production of much circumstantial as well as positive evidence. We did not find any serious resistance on this head, till we came to make good our charges of secret crimes; crimes of a class and description, in the proof of which, all judges of all countries have found it necessary to relax almost all their rules of competency; such crimes as peculation, pecuniary frauds, extortion, and bribery. Eight out of nine of the questions put to the judges by the lords, in the first stage of the prosecution, related to circumstances offered in proof of these secret crimes.

Much industry and art have been used, among the illiterate and unexperienced, to throw imputations on this prosecution, and its conduct, because so great a proportion of the evidence offered on this trial (especially on the latter charges) has been circumstantial. Against the prejudices of the ignorant, your committee opposes the judgment of the learned. It is known to them that, when this proof is in its greatest perfection, that is, when it is most abundant in circumstances, it is much superior to positive proof; and for this we have the authority of the learned judge who presided at the trial of Captain Donellan:—"On the part of the prosecution, a great deal of evidence has been laid before you. It is *all* circumstantial evidence, and in its nature it must be so; for, in cases of this sort, no man is weak enough to commit the act in the presence of other persons, or to suffer them to see what he does at the time; and therefore it can only be made out by circumstances, either before the committing of the act, at the time when it was committed, or subsequent to it; and a presumption, which necessarily arises from circumstances, is very often more convincing and more satisfactory than any other kind of evidence, because it is not within the reach and compass of human abilities to invent a train of circumstances, which shall be so connected together, as to amount to a proof of guilt, without affording opportunities of contradicting a great part, if not all, of these circumstances. But if the circumstances are such as, when laid together, bring conviction to your minds, it is then fully equal, if not, as I told you before, *more* convincing than positive evidence." In the trial of Donellan no such selection was used as we have lately experienced; no limitation to the production of every matter, before, at, and after the fact charged. The trial was (as we conceive) rightly conducted by the learned judge—because secret crimes, such as secret assassination, poisoning, bribery, peculation, and extortion (the three last of which this House has charged upon Mr. Hastings) can very rarely be proved in any other way. That way of proof is made to give satisfaction to a searching, equitable, and intelligent mind; and there must not be a failure of justice. Lord Mansfield has said, that he did not know a case, in which proof might not be supplied.

Your committee has resorted to the trial of Donellan; and they have, and do much rely upon it, first, on account of the known learning and ability of the judge who tried the cause, and the particular attention he has paid to the subject of evidence, which forms a book in his treatise on *nisi prius*. Next, because, as the trial went *wholly* on circumstantial evidence, the proceedings in it furnish some of the most complete and the fullest examples on that subject. Thirdly, because the case is recent; and the law cannot be supposed to be materially altered since the time of that event.

Comparing the proceedings on that trial, and the doctrines from the bench, with the doctrines we have heard from the woolsack, your committee cannot comprehend how they can be reconciled. For, the lords compelled the managers to declare for what purpose they produced each separate member of their circumstantial evidence; a thing, as we conceive, not usual, and particularly not observed in the trial of Donellan. We have observed in that trial, and in most others to which we have had occasion to resort, that the prosecutor is suffered to proceed narratively and historically, without interruption. If indeed, it appears on the face of the narration, that what is represented to have been said, written, or done, did not come to the knowledge of the prisoner, a question sometimes, but rarely, has been asked, whether the prisoner could be affected with the knowledge of it. When a connexion with the person of the prisoner has been in any way shown, or even promised to be shown

the evidence is allowed to go on without further opposition. The sending of a sealed letter, the receipt of a sealed letter, inferred from the delivery to the prisoner's servant; the bare possession of a paper written by any other person, on the presumption that the contents of such letters, or such paper, were known to the prisoner; and the being present when any thing was said or done, on the presumption of his seeing or hearing what passed, have been respectively ruled to be sufficient. If, on the other hand no circumstance of connexion has been proved, the judge, in summing up, has directed the jury to pay no regard to a letter or conversation, the proof of which has so failed—a course much less liable to inconvenience, where the same persons decide both the law and the fact.

To illustrate the difficulties to which your committee was subjected on this head, we think it sufficient to submit to the House (reserving a more full discussion of this important point to another occasion) the following short statement of an incident which occurred in this trial.

By an express order of the court of directors (to which by the express words of the act of parliament, under which he held his office, he was ordered to yield obedience) Mr. Hastings and his colleagues were directed to make an inquiry into all offences of bribery and corruption in office. On the 11th of March a charge in writing of bribery and corruption in office was brought against himself. On the 13th of the same month, the accuser, a man of high rank, the rajah Nundcomar, appears personally before the council, to make good his charge against Mr. Hastings before his own face. Mr. Hastings thereon fell into a very intemperate heat, obstinately refused to be present at the examination, attempted to dissolve the council, and contumaciously retired from it. Three of the other members, a majority of the council, in execution of their duty, and in obedience to the orders received under the act of parliament, proceeded to take the evidence, which is very minute and particular, and was entered in the records of the council by the regular official secretary. It was afterwards read in Mr. Hastings's own presence, and by him transmitted, under his own signature, to the court of directors. A separate letter was also written by him, about the same time, desiring, on his part, that in any inquiry into his conduct, "not a single word should escape observation." This proceeding in the council, your committee, in its natural order, and in a narrative chain of circumstantial proof, offered in evidence. It was not permitted to be read—and on the 20th and 21st of May 1789, we were told, from the woolsack, "that when a paper is not evidence by itself" (such this part of the consultation it seems was reputed) "a party who wishes to introduce a paper of that kind, is called upon not only to state, but to make out on proof, the whole of the grounds upon which he proceeds to make that paper proper evidence. That the evidence that is produced must be *the demeanour* of the party respecting that paper; and it is the connexion between them, *as material to the charge depending*, that will enable them to be produced."

Your committee observes, that this was not a paper *foreign* to the prisoner, and sent to him *as a letter*, the receipt of which, and his conduct thereon, were to be brought home to him, to infer his guilt from his demeanour. It was an office document of his own department, concerning himself, and kept by officers of his own, and by himself transmitted, as we have said, to the court of directors. Its proof was in the record. The charge made against him, and his demeanour on being acquainted with it, were not in separate evidence. They all lay together, and composed a connected narrative of the business, authenticated by himself.

In this case it seems to your committee extremely irregular and preposterous to demand previous and extraneous proofs of the demeanour of the party respecting the paper, and the connexion between them, as *material to the charge* depending; for this would be to try what the effect and operation of the evidence would be on the issue of the cause, before its production.

The doctrine so laid down, demands that every several circumstance should in itself be conclusive, or at least should afford a violent presumption; it must, we were told, without question, be material to the charge depending: but, as we conceive, its materiality, more or less, is not in the first instance to be established. To make it admissible, it is enough to give proof, or to raise a legal inference, of its connexion both with the charge depending, and the person of the party charged, where it does not appear on the face of the evidence offered. Besides, by this new doctrine, the materiality required to be shown, must be decided from a consideration, not of the whole circumstance, but, in truth, of one half of the circumstance of a demeanour, unconnected with, and unexplained by, that on which it arose, though

the connexion between the demeanour of the party and the paper is that which must be shown to be material. Your committee, after all they have heard, is yet to learn how the full force and effect of any demeanour, as evidence of guilt or innocence, can be known, unless it be also fully known to what that demeanour applied; unless when a person did or said any thing, it be known, not generally and abstractedly, that a paper was read to him, but particularly and specifically what were the contents of that paper: whether they were matters lightly or weightily alleged; within the power of the party accused to have confuted on the spot, if false; or such as, though he might have denied, he could not instantly have disproved. The doctrine appeared, and still appears, to your committee to be totally abhorrent from the genius of circumstantial evidence, and mischievously subversive of its use. We did, however, offer that extraneous proof which was demanded of us; but it was refused, as well as the office document.

Your committee thought themselves the more bound to contend for every mode of evidence *to the intention;* because in many of the cases the gross fact was admitted, and the prisoner and his counsel set up pretences of public necessity and public service for his justification. No way lay open for rebutting this justification, but by bringing out all the circumstances attendant on the transaction.

ORDER AND TIME OF PRODUCING EVIDENCE.

Your committee found great impediment in the production of evidence, not only on account of the general doctrines supposed to exist concerning its inadmissibility, drawn from its own alleged natural incompetency, or from its inapplicability under the pleading of the impeachment of this House; but also from the mode of proceeding in bringing it forward.—Here evidence which we thought necessary to the elucidation of the cause was not suffered, upon the supposed rules of *examination in chief, and cross examination*—and on supposed rules, forming a distinction between evidence *originally* produced on the charge, and evidence offered on the *reply*.

On all these your committee observes in general, that if the rules, which respect the substance of the evidence, are (as the great lawyers on whose authority we stand assert they are) no more than rules of convenience, much more are those subordinate rules, which regard the order, the manner, and the time of the arrangement. These are purely arbitrary; without the least reference to any fixed principle in the nature of things, or to any settled maxim of jurisprudence, and consequently are variable at every instant, as the conveniences of the cause may require.

We admit, that in the order of mere arrangement there is a difference between examination of witness in chief, and cross examination, and that in general these several parts are properly cast, according to the situation of the parties in the cause; but there neither is nor can be any precise rule to discriminate the exact bounds between examination and cross examination. So, as to time, there is necessarily some limit, but a limit hard to fix. The only one which can be fixed with any tolerable degree of precision, is when the judge, after fully hearing all parties, is to consider of his verdict or his sentence. Whilst the cause continues under hearing in any shape, or in any stage of the process, it is the duty of the judge to receive every offer of evidence, apparently material, suggested to him, though the parties themselves, through negligence, ignorance, or corrupt collusion, should not bring it forward. A judge is not placed in that high situation merely as a passive instrument of parties: he has a duty of his own, independent of them, and that duty is to investigate the truth. There may be no prosecutor,—in our law a permanent prosecutor is not of necessity. The crown prosecutor in criminal cases is a grand jury; and this is dissolved instantly on its findings and its presentments. But if no prosecutor appears, (and it has happened more than once,) the court is obliged, through its officer, the clerk of the arraigns, to examine and cross examine every witness who presents himself; and the judge is to see it done effectually, and to act his own part in it; and this as long as evidence shall be offered within the time which the mode of trial will admit.

Your committee is of opinion, that if it has happened, that witnesses or other kinds of evidence have not been frequently produced after the closing of the prisoner's defence, or such evidence has not been in reply given, it has happened from the peculiar nature of our common judicial proceedings, in which all the matter of evidence must be presented, whilst the bodily force and the memory, or other mental faculties of men, can hold out. This does not exceed the compass of one natural day, or thereabouts; during that short space of time, new evidence very rarely occurs for production by any of the parties; because the

nature of men, joined to the nature of the tribunals, and of the mode of trial at common law (good and useful on the whole) prescribe limits which the mere principles of justice would of themselves never fix.

But in other courts, such as the court of chancery, the courts of admiralty jurisdiction (except in prize causes under the act of parliament,) and in the ecclesiastical courts, wherein the trial is not by an enclosed jury, in all those courts such strait limits are not of course necessary: The cause is continued by many adjournments; as long as the trial lasts, new witnesses are examined, (even after the regular stage,) for either party, on a special application to the sound discretion of the court, when the evidence offered is newly come to the knowledge or power of the party, and appears on the face of it to be material in the cause. *Even after hearing*, new witnesses have been examined, or former witnesses re-examined, not as the right of the parties, but *ad informandam conscientiam judicis*. All these things are not unfrequent in some, if not in all, of these courts, and perfectly known to the judges of Westminster Hall, who cannot be supposed ignorant of the practice of the court of chancery; and who sit to try appeals from the admiralty and ecclesiastical courts as delegates.

But as criminal prosecutions, according to the forms of the civil and canon law, are neither many nor important in any court of this part of the kingdom, your committee thinks it right to state the undisputed principle of the imperial law from the great writer on this subject before cited by us—from Carpzovius. He says, "that a doubt has arisen whether, evidence being once given in a trial on a public prosecution (*in processu inquisitorio*) and the witnesses being examined, it may be allowed to form other and new articles, and to produce new witnesses." Your committee must here observe, that the *processus inquisitorius* is that proceeding in which the prosecution is carried on in the name of the judge acting *ex officio*; from that duty of his office, which is called the *nobile officium judicis*. For the judge under the imperial law possesses both those powers, the inquisitorial and the judicial, which in the high court of parliament are more aptly divided and exercised by the different Houses; and in this kind of process the House will see that Carpzovius couples the production of new witnesses and the forming of new articles (the undoubted privilege of the Commons) as intimately and necessarily connected. He then proceeds to solve the doubt—"Certainly (says he) there are authors who deny, that, after publication of the depositions, any new witnesses and proofs, that can affect the prisoner, ought to be received, which (says he) is true in a case where a private prosecutor has intervened, who produces the witnesses. But if the judge proceeds by way of inquisition *ex officio*, then, even after the completion of the examination of witnesses against the prisoner, new witnesses may be received and examined; and on new grounds of suspicion arising, new articles may be formed according to the common opinion of the doctors; and as it is the most generally received, so it is most agreeable to reason." And in another chapter, relative to the ordinary criminal process by a private prosecutor, he lays it down, on the authority of Angelus, Bartolus, and others, that after the right of the party prosecuting is expired, the judge taking up the matter *ex officio* may direct new witnesses and new proofs, even after publication. Other passages from the same writer, and from others, might be added; but your committee trust that what they have produced is sufficient to show the general principles of the imperial criminal law.

The modes of proceeding in the high court of parliament bear a much greater resemblance to the course of the court of chancery, the admiralty, and ecclesiastical courts (which are the king's courts too, and their law the law of the land) than to those of the common law.

The accusation is brought into parliament at this very day by *exhibiting articles*; which, your committee is informed, is the regular mode of commencing a criminal prosecution, where the office of the judge is promoted in the civil and canon law courts of this country. The answer, again, is usually specific, both to the fact and the law alleged in each particular article, which is agreeable to the proceeding of the civil law, and not of the common law.

Antiently the resemblance was much nearer and stronger. Selden, who was himself a great ornament of the common law, and who was personally engaged in most of the impeachments of his time, has written expressly on the judicature in parliament. In his fourth chapter, intituled, *Of Witnesses*, he lays down the practice of his time, as well as of antient times, with respect to the proof by examination; and it is clearly a practice more similar to that of the civil than the common law. "The practice at this day (says he) is to swear the witnesses in open House, and then to examine them there, *or at a committee*, either upon *interrogatories* agreed upon in the House, or such as the

committee in their discretion shall demand—thus it was in antient times, as shall appear by the precedents, so many as they are, they being very sparing to record those ceremonies, which I shall briefly recite, I then add those of later times."

Accordingly, in times so late as those of the trial of Lord Middlesex, upon an impeachment of the Commons, the whole course of the proceeding, especially in the mode of adducing the evidence, was in a manner the same as in the civil law: Depositions were taken, and publication regularly passed; and on the trial of Lord Strafforde, both modes pointed out by Selden seem to have been indifferently used.

It follows, therefore, that this high court (bound by none of their rules) has a liberty to adopt the methods of any of the legal courts of the kingdom at its discretion; and in *sound* discretion it ought to adopt those, which bear the nearest resemblance to its own constitution, to its own procedure, and to its exigencies in the promotion of justice There are conveniences and inconveniences both in the shorter and the longer mode of trial. But to bring the methods observed (if such are in fact observed) in the former, only from necessity, into the latter, by choice, is to load it with the inconveniency of both, without the advantages of either. The chief benefit of any process, which admits of adjournments, is, that it may afford means of fuller information and more mature deliberation. If neither of the parties have a strict right to it, yet the court or the jury, as the case may be, ought to demand it.

Your committee is of opinion, that all rules relative to laches or neglects in a party to the suit, which may cause nonsuit on the one hand, or judgment by default in the other, all things, which cause the party *cadere in jure*, ought not to be adhered to in the utmost rigour even in civil cases; but still less ought that spirit, which takes advantage of lapses and failures, on either part, to be suffered to govern in causes criminal. "Judges ought to lean against every attempt to *nonsuit* a plaintiff on objections, which have no relation to the real merits. It is unconscionable in a defendant to take advantage of the *apices litigandi*;—against such objections, every possible presumption ought to be made which ingenuity can suggest. How disgraceful would it be to the administration of justice to allow chicane to obstruct right!" This observation of Lord Mansfield applies equally to every means, by which, indirectly as well as directly, the cause may fail, upon any other principles than those of its merits. He thinks, that all the resources of ingenuity ought to be employed to baffle chicane, not to support it. The case, in which Lord Mansfield has delivered this sentiment is merely a civil case. In civil causes of *meum et tuum*, it imports little to the commonwealth, whether *Titus* or *Mævius* profits of a legacy; or whether *John a Nokes* or *John a Stiles* is seised of the manor of *Dale*. For which reason, in many cases, the private interests of men are left by courts to suffer by their own neglects, and their own want of vigilance, as their fortunes are permitted to suffer from the same causes in all the concerns of common life. But in crimes, where the prosecution is on the part of the public (as all criminal prosecutions are, except appeals) the public prosecutor ought not to be considered as a plaintiff in a cause of *meum et tuum*; nor the prisoner, in such a cause, as a common defendant. In, such a cause the state itself is highly concerned in the event: On the other hand, the prisoner may lose life, which all the wealth and power of all the states in the world cannot restore to him. Undoubtedly the state ought not to be weighed against justice; but it would be dreadful indeed if causes of such importance should be sacrificed to petty regulations, of mere secondary convenience, not at all adapted to such concerns, nor even made with a view to their existence. Your committee readily adopts the opinion of the learned *Ryder*, that it would be better if there were no such rules, than that there should be no exceptions to them. Lord *Hardwicke* declared very properly, in the case of the Earl of Chesterfield against Sir Abraham Janson, "That political arguments, in the fullest sense of the word, as they concerned the government of a nation, must be, and always have been, of great weight in the consideration of this court. Though there be no *dolus malus* in contracts, with regard to other persons, yet if the rest of mankind are concerned as well as the parties, it may be properly said, it regards the public utility." Lord Hardwicke laid this down in a cause of *meum et tuum* between party and party, where the public was concerned only remotely, and in the example; not as in this prosecution, when the political arguments are infinitely stronger, the crime relating, and in the most eminent degree relating, to the public.

One case has happened since the time which is limited by the order of the House for this report: It is so very important, that we think ourselves justified in submitting it to the House without delay. Your committee, on the supposed rules here alluded to, has been prevented from examining (as of right) a wi-

ness of importance in the case, and one on whose supposed knowledge of his most hidden transactions, the prisoner had himself, in all stages of this business, as the House well knows, endeavoured to raise presumptions in favour of his cause. Indeed it was his principal, if not only justification, as to the *intention* in many different acts of corruption charged upon him. The witness to whom we allude, is Mr. Larkins. This witness came from India after your committee had closed the evidence of this House, in chief; and could not be produced before the time of the reply. Your committee was not suffered to examine him; not, as they could find, on objections to the particular question, as improper, but upon some or other of the general grounds (as they believe) on which Mr. Hastings resisted any evidence from him. The party, after having resisted his production, on the next sitting day admitted him; and by consent he was examined: Your committee entered a protest on their minutes in favour of their right. Your committee contended, and do contend, that by the law of parliament, whilst the trial lasts they have full right to call new evidence, as the circumstances may afford, and the posture of the cause may demand it. This right seems to have been asserted by the managers for the Commons, in the case of Lord Stafford—32 Cha. II. The managers, in that case claimed it as the right of the Commons to produce witnesses for the purpose of fortifying their former evidence. Their claim was admitted by the court. It is an adjudged case in the law of parliament. Your committee is well aware, that the notorious perjury and infamy of the witnesses in the trial of Lord Stafford has been used to throw a shade of doubt and suspicion on all that was transacted on that occasion. But there is no force in such an objection. Your committee has no concern in the defence of these witnesses; nor of the lords who found their verdict on such testimony; nor of the morality of those who produced it. Much may be said to palliate errours on the part of the prosecutors and judges, from the heat of the times, arising from the great interests then agitated. But it is plain, there may be perjury in witnesses, or even conspiracy unjustly to prosecute, without the least doubt of the legality and regularity of the proceedings in any part. This is too obvious and too common to need argument or illustration. The proceeding in Lord Stafford's case never has, for an hundred and fourteen years, either in the warm controversies of parties, or in the cool disquisitions of lawyers or historians, been questioned. The perjury of the witnesses has been more doubted at some periods, than the regularity of the process has been at any period. The learned lawyer who led for the Commons in that impeachment (Serjeant Maynard) had, near forty years before, taken a forward part in the great cause of the impeachment of Lord Strafforde; and was, perhaps, of all men then in England, the most conversant in the law and usage of parliament. Jones was one of the ablest lawyers of his age. His colleagues were eminent men.

In the trial of Lord Strafforde (which has attracted the attention of history more than any other, on account of the importance of the cause itself, the skill and learning of the prosecutors, and the eminent abilities of the prisoner) after the prosecutors for the Commons had gone though their evidence on the articles; after the prisoner had also made his defence, either upon each severally, or upon each body of articles as they had been collected into one; and the managers had in the same manner replied; when, previous to the general concluding reply of the prosecutors, the time of the general summing up (or recollection as it was called) of the whole evidence on the part of Lord Strafforde arrived, the managers produced new evidence. Your committee wishes to call the particular attention of the House to this case, as the contest between the parties did very nearly resemble the present; but, principally, because the sense of the lords on the law of parliament, in its proceedings with regard to the reception of evidence, is there distinctly laid down: So is the report of the judges relative to the usage of the courts below, full of equity and reason, and in perfect conformity with the right for which we contended in favour of the public, and in favour of the court of peers itself. The matter is as follows. Your committee gives it at large:

"After this, the lord steward adjourned this House to Westminster Hall; and the peers being all set there in their places, the lord steward commanded the lieutenant of the tower to bring forth the Earl of Strafforde to the bar; which being done, the lord steward signified, that both sides might make a recollection of their evidence, and the Earl of Strafforde to begin first.

"Hereupon Mr. Glynn desired, that before the Earl of Strafforde began, that the Commons might produce two witnesses to the fifteenth and twenty-third articles, to prove that there be two men whose names are Berne; and so a mistake will be made clear. The Earl of Strafforde desired, that no new wit-

nesses may be admitted against him, unless he might be permitted to produce witnesses on his part likewise; which the Commons consented to, so the Earl of Strafforde would confine himself to those articles upon which he made reservations; but he not agreeing to that, and the Commons insisting upon it; The House was adjourned to the usual place above, to consider of it; and after some debate, their lordships thought it fit, That the members of the Commons go on in producing new witnesses, as they shall think fit, to the fifteenth and twenty-third articles; and that the Earl of Strafforde may presently produce such witnesses as are present; and such as are not, to name them presently, and to proceed on Monday next; and also, if the Commons and Earl of Strafforde will proceed upon any other articles, upon new matter, they are to name the witnesses and articles on both sides presently, and to proceed on Monday next; but both sides may waive it if they will. The lord steward adjourned this House to Westminster Hall; and, being returned thither, signified what the lords had thought fit for the better proceeding in the business. The Earl of Strafforde, upon this, desiring not to be limited to any reservation, but to be at liberty for what articles are convenient for him to fortify with new witnesses; to which the Commons not assenting, and for other scruples which did arise in the case, one of the peers did desire that the House might be adjourned, to consider further of the particulars. Hereupon the lord steward adjourned the House to the usual place above. The lords, being come up into the House, fell into debate of the business; and, for the better informing of their judgments what was the course and common justice of the kingdom, propounded this question to the judges; Whether it be according to the course of practice, and common justice, before the judges in their several courts, for the prosecutors in behalf of the king, *during the time of trial, to produce witnesses to discover the truth*, and whether the prisoner may not do the like? The lord chief justice delivered this, as the unanimous opinions of himself and all the rest of the judges: That, according to the courts of practice, and common justice, before them in their several courts, upon trial by jury *as long as the prisoner is at the bar, and the jury not sent away*, either side may give their evidence, and examine witnesses to discover truth; and this is all the opinion as we can give concerning the proceedings before us. Upon some consideration after this the House appointed the Earl of Bath, Earl of South'ton, Earl of Hartford, Earl of Essex, Earl of Bristol, and the Lord Viscount Say et Seale, To drawn up some reasons upon which the former order was made; which being read as followeth, were approved of, as the order of the House: The gentlemen of the House of Commons did declare, that they challenge themselves, by the common justice of the kingdom, that they, being prosecutors for the king, may bring any new proofs by witnesses during the time of the evidence being not fully concluded. The lords, being judges, and so equal to them and the prisoner, conceived this their desire to be just and reasonable; and also that, by the same common justice, the prisoner may use the same liberty; and that, to avoid any occasions of delay, the lords thought fit that the articles and witnesses be presently named, and such as may be presently produced to be used presently; and no further time to be given. The lord steward was to let them know, that if they will on both sides waive the use of new witnesses, they may proceed to the recollection of their evidence on both sides; if both sides will not waive it, then the lord steward is to read the precedent order; and, if they will not proceed then, this House is to adjourn and rise."

By this it will appear to the House, how much this exclusion of evidence, *brought for the discovery of truth*, is unsupported either by parliamentary precedent, or by the rule as understood in the common law courts below; and your committee (protesting however against being bound by any of the technical rules of inferiour courts) thought and think they had a right to see such a body of precedents and arguments for the rejection of evidence during trial, in some court or other, before they were in this matter stopped and concluded.

Your committee has not been able to examine every criminal trial in the voluminous collection of the state trials, or elsewhere; but having referred to the most laborious compiler of law and equity, Mr. Viner, who has allotted a whole volume to the title of evidence, we find but one ruled case in a trial at common law, before or since, where new evidence for the discovery of truth has been rejected, as not being in due time. "A privy verdict had been given in B. R. 14 Eliz. for the defendant, but afterwards before the inquest gave their verdict openly, the plaintiff prayed that he might give more evidence to the jury, he having (as it seemed) discovered that the jury had found against him, but the justices would not admit him to do so: but after that Southcote, J. had been in C. P. to ask the

opinion of the justices there, they took the verdict." In this case the offer of new evidence was not during the trial. The trial was over. The verdict was actually delivered to the judge. There was also an appearance that the discovery of the actual finding had suggested to the plaintiff the production of new evidence—yet it appeared to the judges so strong a measure to refuse evidence, whilst any, even formal appearance remained, that the trial was not closed, that they sent a judge from the bench into the Common Pleas to obtain the opinion of their brethren there, before they could venture to take upon them to consider the time for production of evidence as elapsed. The case of refusal, taken with its circumstances, is full as strong an example in favour of the report of the judges in Lord Strafforde's case, as any precedent of admittance can be.

The researches of your committee not having furnished them with any cases in which evidence has been rejected during the trial, as being out of time, we have found some instances in which it has been actually received; and received not to repel any new matter in the prisoner's defence—but when the prisoner had called all his witnesses, and thereby closed his defence. A remarkable instance occurred on the trial of Harrison, for the murder of Dr. Clenche. The justices who tried the cause, (viz.) lord chief justice Holt, and the justices Atkins and Nevil, admitted the prosecutor to call new evidence, for no other reason but that a new witness was then come into court, who had not been in court before. These justices apparently were of the same opinion on this point with the justices who gave their opinion in the case of Lord Strafforde. Your committee, on this point, as on the former, cannot discover any authority for the decision of the House of Lords in the law of parliament, or in the law practice of any court in this kingdom.

PRACTICE BELOW.

Your committee not having learned that the resolutions of the judges (by which the lords have been guided) were supported by any authority in law to which they could have access, have heard by rumour, that they have been justified upon the practice of the courts, in ordinary trials by commission of oyer and terminer. To give any legal precision to this term of *practice*, as thus applied, your committee apprehends it must mean—that the judge in those criminal trials has so regularly rejected a certain kind of evidence when offered there, that it is to be regarded in the light of a case frequently determined by legal authority. If such had been discovered, though your committee never could have allowed these precedents as rules for the guidance of the high court of parliament, yet they should not be surprised to see the inferiour judges forming their opinions on their own confined practice. Your committee, in their inquiry, has found comparatively few reports of criminal trials, except the collection under the title of State Trials, a book compiled from materials of very various authority, and in none of those which we have seen is there, as appears to us, a single example of the rejection of evidence, similar to that rejected by the advice of the judges in the House of Lords. Neither, if such examples did exist, could your committee allow them to apply directly and necessarily as a measure of reason to the proceedings of a court constituted so very differently from those in which the common law is administered. In the trials below, the judges decide on the competency of the evidence before it goes to the jury, and (under the correctives in the use of their discretion stated before in this report) with great propriety and wisdom. Juries are taken promiscuously from the mass of the people; they are composed of men who, in many instances, in most perhaps, never were concerned in any causes, judicially or otherwise, before the time of their service. They have generally no previous preparation or possible knowledge of the matters to be tried, or what is applicable or inapplicable to them; and they decide in a space of time too short for any nice or critical disquisition. The judges, therefore, of necessity, must forestall the evidence where there is a doubt on its competence, and indeed observe much on its credibility, or the most dreadful consequences might follow. The institution of juries, if not thus qualified, could not exist. Lord *Mansfield* makes the same observation with regard to another corrective of the short mode of trial—that of a *new trial*.

This is the law, and this its policy. The jury are not to decide on the competency of witnesses, or of any other kind of evidence, in any way whatsoever. Nothing of that kind can come before them. But the lords in the high court of parliament are not, either actually or virtually, a jury. No legal power is interposed between them and evidence; they are themselves by law fully and exclusively equal to it. They are persons of high rank, generally of the best education, and of sufficient knowledge of the world; and they are a permanent, a settled, a corporate, and not an

occasional and transitory judicature. But it is to be feared, that the authority of the judges (in the case of juries legal) may, from that example, weigh with the lords further than its reason, or its applicability to the judicial capacity of the peers can support. It is to be feared, that if the lords should think themselves bound implicitly to submit to this authority, that at length they may come to think themselves to be no better than jurors, and may virtually consent to a partition of that judicature, which the law has left to them whole, supreme, uncontroulled, and final.

This final and independent judicature, because it is final and independent, ought to be very cautious with regard to the rejection of evidence. If incompetent evidence is received by them, there is nothing to hinder their judging upon it afterwards according to its value. It may have no weight in their judgment; but if, upon advice of others, they previously reject information necessary to their proper judgment, they have no intermediate means of setting themselves right, and they injure the cause of justice without any remedy. Against errours of juries, there is remedy by a new trial; against errours of judges there is remedy, in civil causes, by demurrer and bills of exceptions; against their final mistake there is remedy by writ of errour, in courts of common law. In chancery there is a remedy by appeal. If they wilfully err in the rejection of evidence, there was formerly the terrour existing of punishment by impeachment of the Commons;—but with regard to the lords, there is no remedy for errour, no punishment for a wilful wrong.

Your committee conceives it not improbable that this apparently total and unreserved submission of the lords to the dictates of the judges of the inferiour courts (no proper judges in any light, or in any degree, of the law of parliament) may be owing to the very few causes of *original* jurisdiction, and the great multitude of those of *appellate* jurisdiction which come before them. In cases of appeal or of errour (which is in the nature of an appeal) the court of appeal is obliged to judge, not by its *own* rules, acting in another capacity, or by those which it shall choose *pro re nata* to make, but by the rules of the inferiour court from whence the appeal comes, for the fault or the mistake of the inferiour judge is, that he has not proceeded as he ought to do, according to the law which he was to administer; and the correction, if such shall take place, is to compel the court from whence the appeal comes, to act as originally it ought to have acted according to law, as the law ought to have been understood and practised in that tribunal. The lords, in such cases of necessity, judge on the grounds of the law, and practice of the courts below; and this they can very rarely learn with precision, but from the body of the judges. Of course much deference is, and ought to be had to their opinions. But by this means a confusion may arise (if not well guarded against) between what they do in their *appellate* jurisdiction, which is frequent, and what they ought to do in their *original* jurisdiction, which is rare: and by this the whole original jurisdiction of the peers, and the whole law and usage of parliament, at least in their virtue and spirit, may be considerably impaired.

After having thus submitted to the House the general tenour of the proceedings in this trial, your committee will, with all convenient speed, lay before the House the proceedings on each head of evidence separately, which has been rejected; and this they hope will put the House more perfectly in possession of the principal causes of the length of this trial, as well as of the injury which parliamentary justice may, in their opinion, suffer from those proceedings.

30th *April*, 1794.

APPENDIX.

APPENDIX, No. 1.

IN THE CASE OF EARL FERRERS.

APRIL 17th, 1760.

THE House of Peers unanimously found Earl Ferrers guilty of the felony and murder whereof he stood indicted; and the earl being brought to the bar, the high steward acquainted him therewith; and the House immediately adjourned to the chamber of parliament: and having put the following question to the judges, adjourned to the next day.

"Supposing a peer, so indicted and convicted, ought by law, to receive judgment as aforesaid, and the day appointed by the judgment for execution should lapse before such execution done, whether a new time may be appointed for the execution, and by whom?"

On the eighteenth, the House then sitting in the chamber of parliament, the lord chief baron, in the absence of the chief justice of the common pleas, delivered, in writing, the opinion of the judges, which they had agreed on and reduced into form that morning. His lordship added many weighty reasons in support of the opinion; which he urged with great strength and propriety, and delivered with a becoming dignity.

TO THE SECOND QUESTION.

"Supposing the day appointed by the judgment for execution should lapse before such execution done, (which, however, the law will not presume,) we are all of opinion, that a new time may be appointed for the execution, either by the high court of parliament, before which such peer shall have been attainted, or by the court of king's bench, the parliament not then sitting; the record of the attainder being properly removed into that court."

The reasons upon which the judges founded their answer to the question relating to the further proceedings of the House after the high steward's commission dissolved, which is usually done upon pronouncing judgment, may possibly require some further discussion. I will, therefore, before I conclude, mention those which weighed with me, and, I believe, with many others of the judges.

REASONS, &c.

Every proceeding in the House of Peers acting in its judicial capacity, whether upon writ of errour, impeachment, or indictment, removed thither by certiorari, is in judgment of law a proceeding before the king in parliament: and therefore the House, in all those cases, may not improperly be styled, the court of our lord the king in parliament. This court is founded upon immemorial usage, upon the law and custom of parliament, and is part of the original system of our constitution. It is open for all the purposes of judicature during the continuance of the parliament: it openeth at the beginning and shutteth at the end of every session; just as the court of king's bench, which is likewise in judgment of law held before the king himself, openeth and shutteth with the term. The authority of this court, or, if I may use the expression, its constant activity for the ends of public justice, independent of any special powers derived from the crown, is not doubted in the case of writs of errour from those courts of law whence errour lieth in parliament, and of impeachments for misdemeanours.

It was formerly doubted, whether, in the case of an impeachment for treason, and in the case of an indictment against a peer for any capital crime, removed into parliament by certiorari, whether in these cases the court can proceed to trial and judgment, without an high steward, appointed by special commission from the crown. This doubt seemeth to have arisen from the not distinguishing between a proceeding in the court of the high steward, and that before the king in parliament. The name, style, and title of office is the same in both cases; but the office, the powers, and preeminences annexed to it, differ very widely; and so doth the constitution of the courts where the offices are executed. The identity of the name may have confounded our ideas, as equivocal words often do, if the nature of things

is not attended to; but the nature of the offices, properly stated, will I hope remove every doubt on these points. In the court of the high steward, he alone is judge in all points of law and practice; the peers triers are merely judges of fact, and are summoned by virtue of a precept from the high steward, to appear before him on the day appointed by him for the trial, Ut Rei Veritas melius sciri poterit. The high steward's commission, after reciting that an indictment hath been found against the peer by the grand jury of the proper county, impowereth him to send for the indictment, to convene the prisoner before him, at such day and place as he shall appoint, then and there to hear and determine the matter of such indictment; to cause the peers triers tot and tales, per quos Rei Veritas melius sciri poterit, at the same day and place to appear before him, Veritateque inde compertâ, to proceed to judgment according to the law and custom of England, and thereupon to award execution.* By this it is plain that the sole right of judicature is in cases of this kind vested in the high steward; that it resideth solely in the person; and consequently without the commission, which is but in nature of a commission of oyer and terminer, no one step can be taken in order to a trial; and that when his commission is dissolved, which he declareth by breaking his staff, the court no longer existeth.

But in a trial of a peer in full parliament, or, to speak with legal precision, before the king in parliament, for a capital offence, whether upon impeachment or indictment, the case is quite otherwise; every peer present at the trial, and every temporal peer, hath a right to be present in every part of the proceeding; voteth upon every question of law and fact; and the question is carried by the major vote, the high steward himself voting merely as a peer and member of that court, in common with the rest of the peers, and in no other right.

It hath indeed been usual, and very expedient it is, in point of order and regularity, and for the solemnity of the proceeding, to appoint an officer for presiding during the time of the trial, and until judgment, and to give him the style and title of steward of England; but this maketh no sort of alteration in the constitution of the court; it is the same court founded in immemorial usage, in the law and custom of parliament, whether such appointment be made or not. It acteth in its judicial capacity in every order made touching the time and place of the trial, the postponing the trial from time to time upon petition, according to the nature and circumstances of the case, the allowance or non-allowance of counsel to the prisoner, and other matters relative to the trial;* and all this before an high steward hath been appointed. And so little was it apprehended, in some cases which I shall mention presently, that the existence of the court depended on the appointment of an high steward, that the court itself directed in what manner, and by what form of words, he should be appointed. It hath likewise received and recorded the prisoner's confession, which amounteth to a conviction, before the appointment of an high steward; and hath allowed to prisoners the benefit of acts of general pardon, where they appeared entitled to it, as well without the appointment of an high steward, as after his commission dissolved. And when, in the case of impeachments, the Commons have sometimes, at conferences between the Houses, attempted to interpose in matters preparatory to the trial, the general answer hath been, "This is a point of judicature upon which the lords will not confer;" they impose "silence upon themselves," or to that effect. I need not here cite instances; every man who hath consulted the journals of either House hath met with many of them.

I will now cite a few cases, applicable, in my opinion, to the present question. And I shall confine myself to such as have happened since the Restoration; because, in questions of this kind, modern cases, settled with deliberation, and upon a view of former precedents, give more light and satisfaction than the deepest search into antiquity can afford. And also because the prerogatives of the crown, the privileges of parliament, and the rights of the subject in general, appear to have been more studied, and better understood, at and for some years before that period, than in former ages.

In the case of the Earl of Danby, and the popish lords then under impeachments, the lords, on the 6th of May 1769, appointed time and place for hearing the Earl of Danby, by his counsel, upon the validity of his plea of pardon, and for the trials of the other lords; and voted an address to his majesty, praying that he would be pleased to appoint an high steward for those purposes. These votes were,

* See Lord Clarendon's commission as high steward, and the writs and precepts preparatory to the trial, in Lord Morley's case. VII. St. Tri.

* See the orders previous to the trial, in the cases of the Lords Kilmarnock, &c. and Lord Lovat, and many other modern cases.

on the next day, communicated to the Commons by message in the usual manner. On the 8th, at a conference between the Houses, upon the subject matter of that message, the Commons expressed themselves to the following effect: "They cannot apprehend what should induce your lordships to address his majesty for an high steward, for determining the validity of the pardon which hath been pleaded by the Earl of Danby, as also for the trial of the other five lords, because they conceive the constituting an high steward is not necessary, but that judgment may be given in parliament upon impeachment without an high steward;" and concluded with a proposition, that for avoiding any interruption or delay, a committee of both houses might be nominated, to consider of the most proper ways and methods of proceeding. This proposition the House of Peers, after a long debate, rejected. *Dissentientibus*, Finch,* chancellour, and many other lords. However, on the 11th, the Commons' proposition of the 8th was, upon a second debate, agreed to; and the lord chancellour, lord president, and ten other lords, were named of the committee, to meet and confer with a committee of the Commons. The next day the lord president reported, That the committees of both Houses met that morning, and made an entrance into the business referred to them; that the Commons desired to see the commissions that are prepared for an high steward at these trials, and also the commissions in the Lord Pembroke's and the Lord Morley's cases. That to this the lords' committees said, "*The high steward is but speaker pro tempore, and giveth his vote well as the other lords; this changeth not the nature of the court*. And the lords declared they have power enough to proceed to trial, though the king should not name an high steward.† That this seemed to be a satisfaction to the Commons, provided it was entered in the lords' journals, which are records." Accordingly, on the same day, "*It is declared and ordered, by the lords spiritual and temporal in parliament assembled, that the office of an high steward upon trials of peers upon impeachments, is not necessary to the House of Peers; but that the lords may proceed in such trials if an high steward be not appointed according to their humble desire.*" On the 13th the lord president reported, That the committees of both Houses had met that morning, and discoursed, in the first place, on the matter of a lord high steward, and had perused former commissions for the office of high steward; and then, putting the House in mind of the order and resolution of the preceding day, proposed from the committees that a new commission might issue, so as the words in the commission may be thus changed, viz. Instead of Ac pro eo quod officium Seneschalli Angliæ (cujus præsentia in hac parte requiritur) ut accepimus jam vacat, may be inserted, Ac pro eo quòd proceres et magnatus in parliamento nostro assemblati, nobis humiliter supplicaverunt ut Seneschallum Angliæ pro hac vice constituere dignaremur; to which the House agreed.§

It must be admitted that precedents drawn from times of ferment and jealousy, as these were, lose much of their weight, since passion and party prejudice generally mingle in the contest; yet let it be remembered, that these are resolutions in which both Houses concurred, and in which the rights of both were thought to be very nearly concerned; the Commons' right of impeaching with effect, and the whole judicature of the lords in capital cases. For if the appointment of an high steward was admitted to be of absolute necessity (however necessary it may be for the regularity and solemnity of the proceeding during the trial, and until judgment, which I do not dispute,) every impeachment may, for a reason too obvious to be mentioned, be rendered ineffectual; and the judicature of the lords, in all capital cases, nugatory.

It was from a jealousy of this kind, not at that juncture altogether groundless, and to guard against every thing from whence the necessity of an high steward, in the case of an impeachment might be inferred, that the Com-

* Afterwards Earl of Nottingham.

† In the Commons' journal of the 15th of May it standeth thus: Their lordships further declare to the committee, that a lord high steward was made *hac vice* only. That notwithstanding the making of a lord high steward, the court remained the same, and was not thereby altered, but still remained the court of peers in parliament. That the lord high steward was but as a speaker or chairman, for the more orderly proceeding at the trials.

‡ This resolution my lord chief baron referred to and cited in his argument upon the second question proposed to the judges, which is before stated.

§ This amendment arose from an exception taken to the commission by the committee for the Commons, which as it then stood did in their opinion imply that the constituting a lord high steward was necessary. Whereupon it was agreed by the whole committee of Lords and Commons, that the commission should be recalled, and a new commission, according to the said amendment, issue, to bear date after the order and resolution of the 12th, (Commons' Journal of the 15th of May.)

mons proposed, and the lords readily agreed to, the amendment in the steward's commission which I have already stated. And it hath, I confess, great weight with me, that this amendment, which was at the same time directed in the cases of the five popish lords, when commissions should pass for their trials, hath taken place, in every commission upon impeachments for treason, since that time.* And I cannot help remarking, that in the case of Lord Lovat, when neither the heat of the times, nor the jealousy of the parties, had any share in the proceeding, the House ordered, "That the commission for appointing a lord high steward shall be in the like form as that for the trial of the Lord Viscount Stafford, as entered in the journal of this House, on the 30th of November 1680, except that the same shall be in the English language."†

I will make a short observation on this matter.

The order, on the 13th of May 1679, for varying the form of the commission, was, as appeareth by the journal, plainly made, in consequence of the resolution of the 12th, and was founded on it; and consequently the constant unvarying practice with regard to the new form goeth, in my opinion, a great way towards showing, that in the sense of all succeeding times, that resolution was not the result of faction, or a blameable jealousy, but was founded in sound reason and true policy. It may be objected, that the resolution of the 12th of May 1679, goeth no further than to a proceeding upon impeachment. The letter of the resolution, it is admitted, goeth no further; but this is easily accounted for: A proceeding by impeachment was the subject matter of the conference, and the Commons had no pretence to interpose in any other. But what say the lords? The high steward is but as a speaker or chairman, *pro tempore*, for the more orderly proceeding at the trials; the appointment of him doth not alter the nature of the court, which still remaineth the court of the peers in parliament. From these premises, they draw the conclusion I have mentioned. Are not these premises equally true in the case of a proceeding upon indictment? They undoubtedly are.

It must likewise be admitted, that in the proceeding upon indictment, the high steward's commission hath never varied from the antient form in such cases. The words objected to by the Commons, *Ac pro eo quòd officium Seneschalli Angliæ (cujus præsentia in hac parte requiritur) ut accepimus jam vacat*, are still retained; but this proveth no more than that the great seal, having no authority to vary in point of form, hath from time to time very prudently followed antient precedents.

I have already stated the substance of the commission, in a proceeding in the court of the high steward. I will now state the substance of that in a proceeding in the court of the peers in parliament. And shall make use of that in the case of the Earl of Kilmarnock and others, as being the latest, and in point of form agreeing with the former precedents. The commission, after reciting that William Earl of Kilmarnock, &c. stand indicted before commissioners of gaol delivery, in the county of Surrey, for high treason, in levying war against the king; and that the king intendeth that the said William Earl of Kilmarnock, &c. shall be heard, examined, sentenced, and adjudged before himself in this present parliament, touching the said treason, and for that the office of steward of Great Britain (whose presence is required upon this occasion) is now vacant, as we are informed, appointeth the then lord chancellour steward of Great Britain, to bear, execute, and exercise (for this time) the said office, with all things due and belonging to the same office, in that behalf.

What, therefore, are the things due and belonging to the office in a case of this kind? Not, as in the court of the high steward, a right of judicature; for the commission itself supposeth that right to reside in a court then subsisting before the king in parliament. The parties are to be there heard, sentenced, and adjudged. What share in the proceeding doth the high steward then take? By the practice and usage of the court of the peers in parliament he giveth his vote as a member thereof with the rest of the peers; but for the sake of regularity and order, he presideth during the trial, and until judgment, as chairman or speaker, *pro tempore*. In that respect, therefore, it may be properly enough said, that his presence is required during the trial, and until judgment, and in no other. Herein I see no difference between the case of an impeachment, and of an indictment. I say, during the time of the trial, and until judgment, because the court hath, as I observed before, from time to time done various acts, plainly judicial, before the appointment of an high steward, and where no high steward hath ever been appointed, and even after the commission dissolved. I will to this purpose cite a few cases.

* See, in the State Trials, the commissions in the cases of the Earl of Oxford, Earl of Derwentwater, and others—Lord Wintoun and Lord Lovat.

† See the proceedings printed by order of the House of Lords, (4th February 1746.)

I begin with the latest, because they are the latest, and were ruled with great deliberation, and, for the most part, upon a view of former precedents. In the case of the Earl of Kilmarnock and others, the lords, on the 24th of June 1746, ordered, that a writ or writs of certiorari be issued for removing the indictments before the House; and on the 26th the writ, which is made returnable before the king in parliament, with the return and indictments, was received and read. On the next day, upon the report of the lords' committees, that they had been attended by the two chief justices, and chief baron, and had heard them, touching the construction of the act of the 7th and 8th of King William, "For regulating trials in cases of high treason and misprision of treason," the House, upon reading the report, came to several resolutions, founded for the most part on the construction of that act. What that construction was, appeareth from the lord high steward's address to the prisoners, just before their arraignment. Having mentioned that act, as one happy consequence of the revolution, he addeth, "However injuriously that revolution hath been traduced, whatever attempts have been made to subvert this happy establishment founded on it, your lordships will now have the benefit of that in its full extent."

I need not, after this, mention any other judicial acts done by the House in this case, before the appointment of the high steward—many there are. For, the putting a construction upon an act relative to the conduct of the court, and the right of the subject at the trial, and in the proceedings preparatory to it, and this in a case entirely new, and upon a point, to say no more in this place, not extremely clear, was undoubtedly an exercise of authority proper only for a court having full cognizance of the cause.

I will not minutely enumerate the several orders made preparatory to the trial of Lord Lovat, and in the several cases I shall have occasion to mention, touching the time and place of the trial, the allowance or non-allowance of counsel, and other matters of the like kind, all plainly judicial, because the like orders occur in all the cases where a journal of the preparatory steps hath been published by order of the peers. With regard to Lord Lovat's case, I think the order directing the form of the high steward's commission, which I have already taken notice of, is not very consistent with the idea of a court, whose powers can be supposed to depend, at any point of time, upon the existence or dissolution of that commission.

In the case of the Earl of Derwentwater, and the other lords impeached at the same time, the House received and recorded the confessions of those of them who pleaded guilty, long before the teste of the high steward's commission, which issued merely for the solemnity of giving judgment against them upon their conviction. This appeareth by the commission itself: it reciteth, that the Earl of Derwentwater and others, Coram nobis in præsenti parliamento, had been impeached by the Commons for high treason, and had, Coram nobis in præsenti parliamento, pleaded guilty to that impeachment; and that the king, intending that the said Earl of Derwentwater and others, de et pro proditione unde ipsi ut præfertur impetit', accusit', et convict' existunt coram nobis in præsenti parliamento, secundum legem et consuetudinem hujus regni nostri Magnæ Britanniæ audientur, sententientur, et adjudicentur, constituteth the then lord chancellour high steward (hac vice) to do and execute all things which to the office of high steward in that behalf do belong. The receiving and recording the confession of the prisoners, which amounted to a conviction, so that nothing remained but proceeding to judgment, was certainly an exercise of judicial authority, which no assembly, how great soever, not having full cognizance of the cause, could exercise.

In the case of Lord Salisbury, who had been impeached by the Commons for high treason, the lords, upon his petition, allowed him the benefit of the act of general pardon passed in the second year of William and Mary, so far as to discharge him from his imprisonment upon a construction they put upon that act, no high steward ever having been appointed in that case. On the 2d of October, 1690, upon reading the earl's petition, setting forth that he had been a prisoner for a year and nine months in the tower, notwithstanding the late act of free and general pardon, and praying to be discharged, the lords ordered the judges to attend on the Monday following, to give their opinions, whether the said earl be pardoned by the act. On 6th the judges delivered their opinions, that if his offence was committed before the 13th of February 1688, and not in Ireland, or beyond the seas, he is pardoned. Whereupon it was ordered, that he be admitted to bail, and the next day he and his sureties entered into a recognizance of bail, himself in £.10,000 and two sureties in £.5,000 each; and on the 30th he and his sureties were, after a long debate, discharged from their recognizance. It will not be material to inquire, whether the House did right in discharging the earl, without giving the Commons an opportu-

nity of being heard; since, in fact, they claimed and exercised a right of judicature without an high steward—which is the only use I make of this case.

They did the same in the case of the Earl of Carnwarth, the Lords Widdrington and Nairn, long after the high steward's commission dissolved. These lords had judgment passed on them at the same time that judgment was given against the Lords Derwentwater, Nithsdale, and Kenmure; and judgment being given, the high steward immediately broke his staff, and declared the commission dissolved, They continued prisoners in the tower, under reprieves, till the passing of the act of general pardon, in the 3d of King George the First. On the 21st of November 1717, the House being informed that these lords had severally entered into recognizances before one of the judges of the court of king's bench, for their appearance in the House in this sessions of parliament; and that the Lords Carnwarth and Widdrington were attended accordingly; and that the Lord Nairn was ill at Bath, and could not then attend; the Lords Carnwarth and Widdrington were called; and severally at the bar prayed that their appearance might be recorded; likewise prayed the benefit of the act for his majesty's general and free pardon. Whereupon the House ordered, that their appearance be recorded, and that they attend again to-morrow, in order to plead the pardon. And the recognizance of the Lord Nairn was respited till that day fortnight. On the morrow the Lords Carnwarth and Widdrington, then attending, were called in; and the lord chancellour acquainted them severally, that it appeared by the records of the House, that they severally stood attainted of high treason; and asked them severally, what they had to say, why they should not be remanded to the tower of London? Thereupon they severally, upon their knees, prayed the benefit of the act, and that they might have their lives and liberty pursuant thereunto. And the attorney-general, who then attended for that purpose, declaring that he had no objection, on his majesty's behalf, to what was prayed, conceiving that those lords, not having made any escape since their conviction, were entitled to the benefit of the act; the House, after reading the clause in the act relating to that matter, agreed that they should be allowed the benefit of the pardon, as to their lives and liberties; and discharged their recognizances, and gave them leave to depart without further day given for their appearance.

On the 6th of December following the like proceedings were had, and the like orders made, in the case of Lord Nairn. I observe, that the lord chancellour did not ask these lords what they had to say why execution should not be awarded. There was, it is probable, some little delicacy as to that point. But since the allowance of the benefit of the act, as to life and liberty, which was all that was prayed, was an effectual bar to any future imprisonment on that account, and also to execution, and might have been pleaded as such in any court whatsoever; the whole proceeding must be admitted to have been in a court having complete jurisdiction in the case, notwithstanding the high steward's commission had been long dissolved—which is all the use I intended to make of this case.

I will not recapitulate; the cases I have cited, and the conclusions drawn from them, are brought into a very narrow compass. I will only add, it would sound extremely harsh to say, that a court of criminal jurisdiction, founded in immemorial usage, and held in judgment of law before the king himself, can in any event whatever be under an utter incapacity of proceeding to trial and judgment, either of condemnation or acquittal, the ultimate objects of every criminal proceeding, without certain supplemental powers derived from the crown.

These cases, with the observations I have made on them, I hope sufficiently warrant the opinion of the judges upon that part of the second question in the case of the late Earl Ferrers, which I have already mentioned. And also what was advanced by the lord chief baron in his argument on that question, "that though the office of high steward should happen to determine before execution done according to the judgment, yet the court of the peers in parliament, where that judgment was given, would subsist for all the purposes of justice during the sitting of the parliament." And consequently that in the case supposed by the question, that court might appoint a new day for the execution.

APPENDIX, No. 2.

QUESTIONS *referred by the Lords to the Judges, in the Impeachment of Warren Hastings, Esquire; and the* ANSWERS *of the Judges. Extracted from the Lords' Journals and Minutes.*

First *Question.*—Whether, when a witness produced and examined in a criminal proceeding by a prosecutor disclaims all knowledge

of any matter so interrogated, it be competent for such prosecutor to pursue such examination, by proposing a question containing the particulars of an answer supposed to have been made by such witness before a committee of the House of Commons, or in any other place; and by demanding of him whether the particulars so suggested were not the answer he had so made? 1788, Feb. 29.—Pa. 418.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges, upon the question of law put to them on Friday the 29th of February last, as follows—" That when a witness produced and examined in a criminal proceeding by a prosecutor disclaims all knowledge of any matter so interrogated, it is not competent for such prosecutor to pursue such examination, by proposing a question containing the particulars of an answer supposed to have been made by such witness before a committee of the House of Commons, or in any other place; and by demanding of him whether the particulars so suggested were not the answers he had so made." 1788, April 10.—Pa. 592.

Second *Question.*—Whether it be competent for the managers to produce an examination taken without oath by the rest of the council in the absence of Mr. Hastings the governour-general, charging Mr. Hastings with corruptly receiving three lacks 54,105 rupees, which examination came to his knowledge, and was by him transmitted to the court of directors as a proceeding of the said councillours, in order to introduce the proof of his demeanour thereupon;—it being alleged by the managers for the Commons, that he took no steps to clear himself, in the opinion of the said directors, of the guilt thereby imputed, but that he took active means to prevent the examination by the said councillours of his servant Cantoo Baboo? 1789, May 14.—Pa. 677.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges, upon the said question, in the negative—and gave his reasons.
1789, May 20.—Pa. 718.

Third *Question.*—Whether the instructions from the court of directors of the United Company of Merchants of England trading to the East-Indies to Warren Hastings, Esquire, governour-general; Lieutenant-general John Clavering, the Honourable George Monson, Richard Barwell, Esquire, and Philip Francis, Esquire, councillours, constituted and appointed the governour-general and council of the said United Company's Presidency of Fort William in Bengal, by an act of parliament passed in the last session, intituled, " An act for establishing certain regulations for the better management of the affairs of the East-India Company, as well in India as in Europe;" of the 29th of March 1774, Par. 31, 32, and 35; the consultation of the 11th March 1775; the consultation of the 13th of March 1775, up to the time that Mr. Hastings left the council; the consultation of the 20th of March 1775; the letter written by Mr. Hastings to the court of directors on the 25th of March 1775—it being alleged that Mr. Hastings took no steps to explain or defend his conduct—are sufficient to introduce the examination of Nundcomar, or the proceedings of the rest of the councillours on the said 13th of March, after Mr. Hastings left the council, such examination and proceedings charging Mr. Hastings with corruptly receiving three lacks 54,105 rupees?
1789, May 21.—Pa. 730.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges, upon the said question, in the negative—and gave his reasons.
1789, May 27.—Pa. 771.

Fourth *Question.*—Whether the public accounts of the nizamut and bhela, under the seal of the begum, attested also by the nabob, and transmitted by Mr. Goring to the board of council at Calcutta, in a letter bearing date the 29th June 1775, received by them, recorded without objection on the part of Mr. Hastings, and transmitted by him likewise without objection to the court of directors, and alleged to contain accounts of money received by Mr Hastings; and it being in proof that Mr. Hastings on the 11th of May 1778, moved the board to comply with the requisitions of the nabob Mobareck ul Dowlah, to reappoint the Munny Begum, and rajah Goordass (who made up those accounts) to the respective offices they before filled—and which was accordingly resolved by the board—ought to be read?
1789, June 17.—Pa. 855.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges, upon the said question, in the negative—and gave his reasons.
1789, June 24.—Pa. 922.

Fifth *Question.*—Whether the paper deli-

vered by Sir Elijah Impey, on the 7th of July 1775, in the supreme court, to the secretary of the supreme council, in order to be transmitted to the council as the resolution of the court in respect to the claim made for Roy Radachurn, on account of his being vakeel of the nabob Mobareck ul Dowlah—and which paper was the subject of the deliberation of the council on the 31st July 1775, Mr. Hastings being then present, and by them transmitted to the court of directors, as a ground for such instructions from the court of directors as the occasion might seem to require—may be admitted as evidence of the actual state and situation of the nabob, with reference to the English government? 1789, July 2.—Pa. 1001.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges, upon the said question, in the affirmative—and gave his reasons.
1789, July 7.—Pa. 1030.

Sixth *Question.*—Whether it be, or be not, competent to the managers for the Commons to give evidence upon the charge in the sixth article, to prove that the rent at which the defendant, Warren Hastings, let the lands mentioned in the said sixth article of charge, to Kelleram, fell into arrear and was deficient—and whether, if proof were offered that the rent fell into arrear immediately after the letting, the evidence would in that case be competent.
1790, April 22.—Pa. 364.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges upon the said question—"That it is not competent to the managers for the Commons to give evidence upon the charge in the sixth article, to prove that the rent at which the defendant, Warren Hastings, let the lands mentioned in the said sixth article of charge, to Kelleram, fell into arrear, and was deficient"—and gave his reasons.
1790, April 27.—Pa. 388.

Seventh *Question.*—Whether it be competent for the managers for the Commons to put the following question to the witness upon the sixth article of charge: viz. "What impression the letting of the lands to Kelleram and Cullian Sing made on the minds of the inhabitants of that country?"
1790, April 27.—Pa. 391.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges upon the said question—"That it is not competent to the managers for the Commons to put the following question to the witness, upon the sixth article of charge; viz. What impression the letting of the lands to Kelleram and Cullian Sing made on the minds of the inhabitants of that country"—and gave his reasons. 1790, April 29.—Pa. 413.

Eighth *Question.*—Whether it be competent to the managers for the Commons to put the following question to the witness, upon the seventh article of charge; viz. "Whether more oppressions did actually exist under the new institution than under the old?"
1790, April 29.—Pa. 415.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges upon the said question—"That it is not competent to the managers for the Commons to put the following question to the witness, upon the seventh article of charge; viz. Whether more oppressions did actually exist under the new institution than under the old"—and gave his reasons.
1790, May 4.—Pa. 428.

Ninth *Question.*—Whether the letter of the 13th April 1781 can be given in evidence by the managers for the Commons, to prove that the letter of the 5th of May 1781, already given in evidence, relative to the abolition of the provincial council, and the subsequent appointment of the committee of revenue, was false in any other particular than that which is charged in the 7th article of charge? 1790, May 20.—Pa. 557.

Answer.—The lord chief baron of the court of exchequer delivered the unanimous opinion of the judges upon the said question—"That it is not competent for the managers on the part of the Commons to give any evidence on the seventh article of impeachment, to prove that the letter of the 5th May 1781 is false in any other particular than that wherein it is expressly charged to be false"—and gave his reasons.
1790, June 2.—Pa. 634.

Tenth *Question.*—Whether it be competent to the managers for the Commons to examine the witness to any account of the debate which was had on the 9th day of July 1778, previous to the written minutes that appear upon the consultation of that date?
1794, February 25.—Lords' Minutes.

Answer.—The lord chief justice of the court

of common pleas delivered the unanimous opinion of the judges upon the said question—" That it is not competent to the managers for the Commons to examine the witness, Philip Francis, Esquire, to any account of the debate which was had on the 9th day of July 1778, previous to the written minutes that appear upon the consultation of that date"—and gave his reasons.

1794, February 27.—Lords' Minutes.

Eleventh *Question*.—Whether it is competent for the managers for the Commons, in reply, to ask the witness, whether, between the time of the original demand being made upon Cheit Sing, and the period of the witness's leaving Bengal, it was at any time in his power to have reversed or put a stop to the demand upon Cheit Sing; the same not being relative to any matter originally given in evidence by the defendant?

1794, February 27.—Lords' Minutes.

Answer.—The lord chief justice of the court of common pleas delivered the unanimous opinion of the judges upon the said question—" That it is not competent for the managers for the Commons to ask the witness, whether, between the time of the original demand being made upon Cheit Sing and the period of his leaving Bengal, it was at any time in his power to have reversed or put a stop to the demand upon Cheit Sing, the same not being relative to any matter originally given in evidence by the defendant"—and gave his reasons.

1794, March 1.—Lords' Minutes.

Twelfth *Question*.—Whether a paper, read in the court of directors on the 4th of November 1783, and then referred by them to the consideration of the committee of the whole court; and again read in the court of directors on the 19th of November 1783, and amended, and ordered by them to be published for the information of the proprietors, can be received in evidence in reply to rebut the evidence given by the defendant, of the thanks of the court of directors, signified to him on the 28th of June 1785.

1794, March 1.—Lords' Minutes.

Answer.—Whereupon the lord chief justice of the court of common pleas, having conferred with the rest of the judges present, delivered their unanimous opinion upon the said question, in the negative—and gave his reasons.

1794, March 1.—Lords' Minutes.

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